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Martina H. Crewe

Signature of Records Custodian

MAETTA H. CREWE, Clerk

Name & Title of Records Custodian

4-21-08

Date



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Collection/Title:

Local Government Records Collection/ Pulaski County/ Commonwealth vs. Stephen Matteson Epperly (Record No. 810626; Circuit Court No. F-80.203), December 1980

Agency/Office of Origin:

Borrowed from Pulaski County Clerk of Court for microfilming then returned.

Name/Title of Records:

Pulaski County/ Commonwealth vs. Stephen Matteson Epperly (Record No. 810626; Circuit Court No. F-80.203)

Inclusive Dates of Records:

December 1980

Date Filmed:

April 2008

Filmed by:
Preservation Resources of 9 Commerce Way
Bethlehem, PA 18017-8916

Pulaski County

Commonwealth vs. Stephen Matteson Epperly

(Record No. 810626; Circuit Court No. F-80.203),

December 1980

Local Records Government Collection
The Library of Virginia

The following items from
Commonwealth vs. Stephen Matteson Epperly
Pulaski County Circuit Court
were missing from the file at the time of microfilming:

1980 arrest warrant

1983 petition for habeas corpus

10 volumes of transcripts from pre-trial and trial

All documents related to the case in the care of the Clerk of
the Circuit Court at the time of reformatting were filmed.

Audio transcripts from the case of
Commonwealth vs. Stephen Matteson Epperly
are also held by the
Library of Virginia in the
Local Government Records Collection
and by the
Clerk of the Circuit Court of Pulaski County, Virginia

Commonwealth of Virginia

In the _____ CIRCUIT _____ Court of the _____ COUNTY OF PULASKI _____

Commonwealth of Virginia

v. }

Stephen Matteson Epperly

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Capias for Arrest of Defendant	September 9, 1980	3
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Witness Subpoena	September 9, 1980	5
Request for Court Appointed Counsel	September 9, 1980	6
Order Appointing Counsel	September 9, 1980	7
Motion Filed by Defense Counsel for State Reimbursement of Expenses to Prepare Case	September 16, 1980	8-9
Motion Filed by Defense Counsel for Discovery of the Commonwealth's Evidence	September 16, 1980	10-11
Order of Court Permitting Discovery	September 17, 1980	12-13
Motion of Defense Counsel for Order Permitting Defense to Interview Witnesses	September 24, 1980	14-15
Certificate of Analysis from Bureau of Forensic Science	September 26, 1980	16-17
Certificate of Analysis from Bureau of Forensic Science	September 26, 1980	18-26
Copy of Letter from Commonwealth Attorney to Defense Counsel (results of polygraph examination)	September 26, 1980	27
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Order of Court Permitting the Defense to Interview Witnesses	October 1, 1980	30-31
Certificate of Analysis from Bureau of Forensic Science	October 3, 1980	32-33

I, Gerry J. Atkinson, Clerk of the above mentioned Court certify that the papers listed above and filed herein, are the original papers in the above styled case.

Teste:

Henry J. Atkinson, Clerk

Commonwealth of Virginia

In the CIRCUIT Court of the COUNTY OF PULASKI

Commonwealth of Virginia

vs. }

Stephen Matteson Epperly

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I, Gerry J. Atkinson, Clerk of the above mentioned Court, certify that the papers listed above and filed herein, are the original papers in the above styled case.

Teste:

Gerry J. Atkinson Clerk

Commonwealth of Virginia

In the CIRCUIT Court of the COUNTY OF PULASKI

Commonwealth of Virginia

vs. }

Stephen Matteson Epperly

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Letter from Defendant to Court Requesting Removal of Counsel	December 15, 1980	102-103

I, Gerry J. Atkinson, Clerk of the above mentioned Court, certify that the papers listed above and filed herein, are the original papers in the above styled case.

Teste:

Henry [Signature] Clerk

Commonwealth of Virginia

In the CIRCUIT Court of the COUNTY OF PULASKI

Commonwealth of Virginia

vs. }

Stephen Matteson Epperly

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I, Gerry J. Atkinson, Clerk of the above mentioned Court, certify that the papers listed above and filed herein, are the original papers in the above styled case.

Teste:

Murray Hutchinson Clerk

Commonwealth of Virginia

In the CIRCUIT Court of the COUNTY OF PULASKI

Commonwealth of Virginia

vs. }

Stephen Matteson Epperly

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I, Gerry J. Atkinson, Clerk of the above mentioned Court, certify that the papers listed above and filed herein, are the original papers in the above styled case.

Teste:

Gerry J. Atkinson, Clerk

Commonwealth of Virginia

In the CIRCUIT Court of the COUNTY OF PULASKI

Commonwealth of Virginia

vs. }

Stephen Matteson Epperly

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Transcript of Trial on December 10, 11, 12, 15, 16 & 19	March 5, 1981	SEPARATE RECORD (VOL. # VI)
Transcript of Trial	March 5, 1981	SEPARATE RECORD (VOL. # VII)
Transcript of Trial	March 5, 1981	SEPARATE RECORD (VOL. # VIII)
Transcript of Trial	March 5, 1981	SEPARATE RECORD (VOL. # IX)
Transcript of Trial	March 5, 1981	SEPARATE RECORD (VOL. # X)

I, Gerry J. Atkinson, Clerk of the above mentioned Court, certify that the papers listed above and filed herein, are the original papers in the above styled case.

Teste: Henry J. Atkinson Clerk

IN THE CIRCUIT COURT OF PULASKI COUNTY, VIRGINIA:

COMMONWEALTH OF VIRGINIA:

COUNTY OF PULASKI, to-wit:

The GRAND JURORS of the COMMONWEALTH of VIRGINIA, in and for the body of the COUNTY of PULASKI, and now attending its Circuit Court at the _____ SEPTEMBER _____ TERM, 1980, upon their oaths, do present that

STEPHEN MATTESON EPPERLY

or about
on/the 29th day of June, 1980, in the said County of Pulaski,
did unlawfully, feloniously and maliciously kill and murder
Gina Renee Hall, in violation of Section 18.2-32 of the 1950
Code of Virginia, as amended, against the peace and dignity of
the Commonwealth.

Upon the evidence of Tpr. C. A. Hall, a witness duly sworn.

/

FILE NO. _____ 80.203

COMMONWEALTH OF VIRGINIA,
Plaintiff

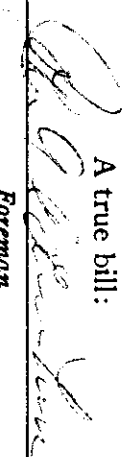
v. Indictment
for a
Felony

(MURDER _____)

STEPHEN MATTESON EPPERLY
Defendant(s)

____ September _____ TERM, 1980,

____ September 8 _____, 1980.

A true bill:

Foreman

EVERETT P. SHOCKLEY
Attorney for the Commonwealth
Pulaski County, Virginia

The Commonwealth of Virginia,

To the Sheriff of the County of Pulaski, Greeting:

WE COMMAND YOU, That you do not omit for any liberty in your bailiwick, but that you take

Stephen Matteson Epperly

if he be found within the same, and he safely keep, so that you have his body

before the Judge of our Circuit Court of the County of Pulaski, forthwith

at the Courthouse, on the day of 1980, to answer us of a certain

indictment made against Stephen Matteson Epperly in the said Court, on the

8th day of September, 1980

by the Grand Jury for murder

And have then there this writ.

WITNESS, Gerry J. Atkinson, Clerk of our said Court, at the Courthouse, this

9th day of September, 1980, and in the 205th year of the Commonwealth.

Gerry J. Atkinson, Clerk

By: James B. Overton, D. C.

3

COMMONWEALTH

vs. { CAPIAS TO ANSWER
AN
INDICTMENT

To.....Term,

.....Court,

19.....

SERVED 9-9-85

AT 11:30 AM


S/A W.B. Welman Jr.

VA. STATE POLICE

Subject Released to W.B.
Welman Jr. for return
to Pellaskie County
Circuit Court. No Bond
Set by this office.

J. Miller
MAGISTRATE

The original Central Criminal Records Exchange form for Stephen Matteson Epperly contains his Social Security Number. A redacted copy has been microfilmed for privacy reasons. The original unredacted form is maintained in the original case file at the Pulaski County courthouse.

MIDDLE				CONTRIBUTOR NO.	F.B.I. NUMBER	CCRE NUMBER
MATTESON						
B. MONTH	DAY	YEAR	PLACE OF BIRTH (CITY-TOWN-COUNTY)	STATE	SOCIAL SECURITY NO.	
5	10	52	RADFORD	VA	226-741436	
WEIGHT	HAIR	EYES	COMPLEXION	SCARS, MARKS, TATTOOS, PECULIAR CHARACTERISTICS		
190	BLO	GRN	FAIR	SCAR ON LEFT FOREARM		
CITY - TOWN - COUNTY			STATE	OCCUPATION (BE SPECIFIC)		
ST RADFORD, VA				UNEMPLOYED		
CR			JURISDICTION OF ARREST	TIME OF ARREST	DATE OF ARREST	
			Roanoke City	11:30 AM	9-9-80	
			CONTRIBUTING AGENCY			
			VA. STATE POLICE			
MISD <input type="checkbox"/>	FELONY <input checked="" type="checkbox"/>		JURISDICTION OF OFFENSE	TIME OF OFFENSE	DATE OF OFFENSE	
B, JR 1053		PULASKI CO.		UNK	6-29-80	
RELEASED PENDING TRIAL <input type="checkbox"/>				TRANSFERRED OTHER AGENCY <input type="checkbox"/>		
				PHOTO AVAILABLE THIS ARREST		
				YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		
SIGNATURE OF PERSON FINGERPRINTED				RIGHT INDEX FINGER		
<i>Stephen M. Sperry</i>						
SIGNATURE OF OFFICIAL TAKING FINGERPRINT						
SIA W.B. Wilmon						
PROSECUTIVE DISPOSITION: DATE _____						
(CHECK ONE)						
FELONY <input checked="" type="checkbox"/>		MISDEMEANOR <input type="checkbox"/>				
DECLINED TO PROSECUTE <input type="checkbox"/>			SET NO A 916852			

NOTICE TO CLERK OF COURT

FORM IS TO BE USED TO REPORT THE COURT DISPOSITION.

COURT SHOULD NOT FORWARD THIS FORM TO THE CENTRAL CRIMINAL RECORDS EXCHANGE UNTIL APPEAL HAS ELAPSED AND NO APPEAL HAS BEEN PERFECTED.

FORWARDED TO THE CLERK OF THE CIRCUIT COURT ON ALL CHARGES APPEALED OR CERTIFIED TO

BEYOND DISPOSITION, PLEASE CHECK THE APPROPRIATE BLOCK ON THE REVERSE SIDE OF THIS FORM CHECKED IN ORDER THAT YOU MAY PROVIDE A FINAL DISPOSITION.

WHEN RECORDED ON REVERSE SIDE OF THIS COPY, FORWARD THIS COPY TO THE CENTRAL CRIMINAL RECORDS EXCHANGE, P.O. BOX 27472, RICHMOND, VA. 23261.

4

IT

CIRCUIT COURT

FILED DATE:

DOCKET NUMBER:
80. 203

DATE OF FILING:
9-8-80

TYPE OF FILING (CHECK ONE):
CERTIFIED FELONY
MISD. APPEAL
INFORMATION
REINSTATEMENT

GRAND JURY FINDING (IF APPLICABLE, CHECK ONE):
INDICTMENT
NO TRUE BILL

COUNSEL (CHECK ONE):
APPOINTED
DEFENDER
PROSEQUI

DATE OF ARRAIGNMENT: ?

RETENTION DECISION (CHECK ONE):
OWN RECOGNIZANCE
BAIL SET
RELEASED ON SUMMONS

INITIAL PLEA (CHECK ONE):
NOT GUILTY
GUILTY
NOLLE CONTENDERE
OTHER

TYPE OF COUNSEL (CHECK ONE):
COURT APPOINTED
PUBLIC DEFENDER
PRIVATE
WAIVED

TRIAL DOCKET DATE:

TYPE OF TRIAL (CHECK ONE):
TRIAL BY JUDGE
TRIAL BY JURY

DISPOSITION (CHECK ONE):
GUILTY
NOT GUILTY
DISMISSED
NOLLE PROSEQUI
OTHER

DISPOSITION RENDERED (CHECK ONE):
JUDGE
JURY
DISPOSITION DATE:
12 16 1980

CONVICTED OF:

1st degree murder
18. 2-32

SENTENCE:

MISDEMEANOR FELONY

SENTENCE IMPOSED BY COURT:

life in prison

DATE OF SENTENCE:
12-16-80

NAME OF COURT:

Pulaski County Circuit

SIGNATURE OF CLERK:

Sandy Sowdy, S.C.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

You are hereby commanded to summon.....

Tpr. C. A. Hall

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse at 9:15 A.M.

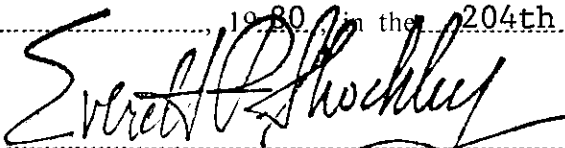
on the 8th day of September 1980 next, during the September term

1980, of the said Court, to testify and the truth to speak before the Grand Jury, concerning.....
(offense occurred on or
Stephen Matteson Epperly about 6/29/80)

And this you shall in nowise omit under penalty of the law.

And have then there this writ.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on
the 21st day of August, 1980, in the 204th year
of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

5

Grand Jury witnesses must claim their attendance at the term to which they are summoned.

Executed on the 21 day of Aug, 1920, in the County of
Pulaski, Virginia, by delivering a true copy of the above mentioned papers
attached to each other, to Spr. C. A. Hall

Frank R. Connor in person

By James F. Fickett Sheriff, County of Pulaski, Va.
Deputy Sheriff

COMMONWEALTH OF VIRGINIA
REQUEST FOR COURT APPOINTED COUNSEL

In the _____ Circuit _____ Court of the
County (City) of Lulucka _____
Commonwealth of Virginia

v.
Gene M. Eppurdy
I, _____ Gene M. Eppurdy _____, have
been advised by _____ R. W. Arthur _____, Judge
of the _____ Circuit _____ Court for the
County (City) of _____ Lulucka _____, of my rights to
representation by counsel in the trial of the charge pending against me in said court;
I certify that I am without means to employ counsel of my own choosing and I
hereby request this court to appoint counsel for me.

Given under my hand this 9th day of Sept _____,
1980.

Stephen M. Eppurdy

Subscribed and sworn to before me in open court in the County (City) of
Lulucka this 9th day of Sept, 1980.

William B. F...
Judge of the _____ Circuit _____
Court of the County (City)
of _____ Lulucka _____

R. Glennwood Lockhart
R. W. Arthur
Court Appointed Counsel

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

vs.

STEPHEN MATTESON EPPERLY

O R D E R

It appearing to the Court that the defendant has been determined by the General District Court of the County of Pulaski to be without counsel of his own choosing and to be indigent and that R. Glennwood Lookabill and R. D. Warburton _____ Esq., able and experienced attorneys at law, practicing before the bar of this Court, have been appointed by that Court to defend him, such determinations and appointment are approved and confirmed by this Court before accepting any plea of the defendant.

And this case is continued.

Enter this Order this 9th day of
September, 1980.

William L. Lane
Judge

BOOK 036 PAGE 09

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA,)	
Plaintiff)	
)	
v.)	MOTION
)	
)	
STEPHEN MATTESON EPPERLY,)	
Defendant)	

The defendant, by his attorneys, Roy David Warburton and R. Glennwood Lookabill, hereby moves the Court for the entry of an order permitting the said attorneys to submit to the Commonwealth of Virginia for reimbursement all bills incurred in the necessary investigation of the charges against the defendant, Stephen Matteson Epperly, pursuant to the provisions of Section 319.2-163 of the 1950 Code of Virginia, as amended. This motion is made because of the complexity of this case, the fact that the Commonwealth of Virginia has expended over \$500,000 in its investigation of this case to date, and to insure that the defendant, Stephen Matteson Epperly, is afforded all the rights to which he is entitled under due process of law.

Respectfully Submitted,
STEPHEN MATTESON EPPERLY

By R. Glennwood Lookabill
Of Counsel

By Roy David Warburton
Of Counsel


R. Glennwood Lookabill
Roy David Warburton
Attorneys at Law
P.O. Box 1506
Pulaski, Virginia 24301
Counselors for Defendant

Lookabill & Warburton
Attorneys at Law
Pulaski, Virginia 24301

received and filed, this the 16th
day of Sept, 1980
Clara Matteson
Roy Warburton

C E R T I F I C A T E

I certify that a true copy of the above motion was hand delivered by Roy David Warburton to Everett P. Shockley, Commonwealth's Attorney, on the 16th day of September, 1980.



Commonwealth's development and prosecution of this case, and that are within the possession, custody, or control of the Commonwealth.

5. Any and all other evidence in the control and/or possession of the Commonwealth which is necessary to protect his rights under the Fourteenth Amendment of the United States Constitution and other provisions of the United States and Virginia Constitutions.

Respectfully Submitted

STEPHEN MATTESON EPPERLY

By R. Glennwood Lookabill
Of Counsel

By Roy David Warburton
Of Counsel

R. Glennwood Lookabill
Roy David Warburton
LOOKABILL & WARBURTON
Attorneys at Law
P.O. Box 1506
Pulaski, Virginia 24301
Counselors for Defendant

C E R T I F I C A T E

I certify that a true copy of the above motion was hand delivered by Roy David Warburton to Everett P. Shockley, Commonwealth's Attorney, on the 16th day of September 1980.

Roy David Warburton
R. Glennwood Lookabill

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA,)
Plaintiff)
)
)
v.) DISCOVERY ORDER
)
)
STEPHEN MATTESON EPPERLY,)
Defendant)


Came this day, the accused, in person and by counsel, Roy David Warburton, and the Commonwealth by its attorney, Everett P. Shockley to argue a motion for discovery filed by defense counsel this date.

After hearing arguments by both sides, in the presence of the defendant, and after careful and mature reflection, the Court hereby ORDERS

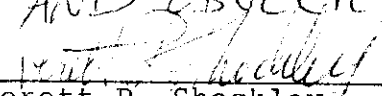
1. That the Commonwealth comply with all portions of the above-mentioned discovery motion; excepting therefrom number 3 referring to bloodhounds which portion of the motion is denied, exception taken by defense counsel;
2. That the defendant make available to the Commonwealth any written reports of a nature described in Rule 3A:14 (b) (2) within his possession, custody or control;
3. That the defendant disclose whether he intends to introduce evidence to establish an alibi, and, if so, that the accused disclose the place at which he claims to have been at the time of the commission of the alleged offense;
4. That both the Commonwealth and the defendant be given until Friday, September 26, 1980, to comply with the terms of this

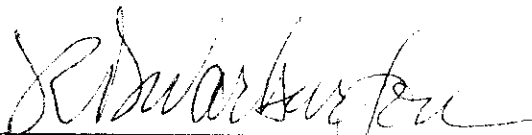
order, and that both the Commonwealth and the defendant have a continuing duty to disclose pursuant to Rule 3A:14 (g).

Enter this the 17th day of September, 1980.


R. William Arthur,
Judge

Seen:

AND OBJECTED TO:

Everett P. Shockley,
Commonwealth Attorney


Roy David Warburton,
Counsel for Defendant

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

STEPHEN MATTESON EPPERLY

)
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)
)

M O T I O N

Comes this day the accused, by counsel, to request that the Court order the Commonwealth to cease and desist any interference with defense efforts to interview witnesses.

As grounds for this motion, the defense states:

1. The defense is not asking for a list of witnesses, and is not asking for an order compelling certain witnesses to be interviewed at this time;

2. The defense seeks to interview certain witnesses known to the defense, some of whom have expressed a willingness to be interviewed;

3. The defense feels it is imperative that such interviews be commenced as soon as possible and that such action is necessary to the formulation of a just and proper defense in this case;

4. The case of Bobo v. Commonwealth, 187 Va. 774, 48 S.E.2d 213 (1948), controls, and requires such freedom to speak to material witnesses as a matter of fundamental due process.

WHEREFORE, the defendant prays that the Court order the Commonwealth to refrain from any interference with attempts by defense counsel to interview witnesses.

Respectfully submitted,

STEPHEN MATTESON EPPERLY

BY *[Signature]*
Counsel

14

Required and filed, this the 24th day of September 1980
[Signature] Clerk

C E R T I F I C A T E

I hereby certify that a true copy of the above motion was delivered to Everett P. Shockley, Commonwealth's Attorney, Circuit Courthouse, Pulaski, Virginia 24301, on the 24th day of September, 1980.



Roy David Warburton

LOOKABILL & WARBURTON
Attorneys at Law
P.O. Box 1506
Pulaski, Virginia 24301
Counsel for defendant



Commonwealth of Virginia
 Department of General Services
 Division of Consolidated Laboratory Services
BUREAU OF FORENSIC SCIENCE

CERTIFICATE OF ANALYSIS

August 11, 1980

Northern Laboratory
 2714 Dorr Avenue
 P. O. Box 486
 Merrifield, Virginia 22116
 Tel. No. (703) 573-8636

Copy only
 Received and filed, this the 26
 day of Sept., 1980
Henry J. Williams Clerk

TO: Chief of Police
 Radford Police Department
 Radford, VA 24141

Attention: Capt. G. S. Williams
 Trooper C. A. Hall, Virginia State Police

Your Case # - - -

Victim(s): HALL, Gina Renee

Suspect(s): EPPERLY, Stephen M.

FS Lab # 80N-1345
 80-0396
 80W-0035

Examiner: Elmer T. Miller

Date Received 7/17, 21/80;
 8/6/80

Evidence Submitted By: G. S. Williams, 7/17/80

- 53. Work shoe
- 54. Leather belt
- 56. Soil from shovel
- 57. Pullover shirt
- 58. Blue, brown & white checked slacks
- 59. Brown dress shoes

Evidence submitted by S/A W. B. Wilmore, Jr. on 7/21/80

- 60. Panties
- 61. Ladies bodysuit
- 62. White trousers
- 63. White blouse
- 64. Bath towel
- 65. Debris from mattock

Evidence submitted by S/A W. B. Wilmore, Jr. on 8/6/80

- 68. Surface soil from area where mattock found
- 69. Surface soil from area where clothing of victim found

IN FUTURE CORRESPONDENCE REFERENCE THIS MATTER PLEASE REFER TO THE FS LAB # ABOVE

cc: Western
 S/A W. B. Wilmore, Jr. (80-4-3194) Page 1 Of 2

16

RESULTS OF EXAMINATION:

Items 68 and 69 are generally similar and consist of brown, silty, sandy soil containing some decaying vegetable matter.

Item 56, from the shovel, and the soil portion of the debris from the mattock (65) are similar and consist of light brown, fine sand and silt with a small amount of plant material. The soil of items 56 and 65 could not be associated with items 68 and 69. The probable locality from which this soil came could not be determined. The soil could have come from within a few inches of the surface.

A very small amount of light brown, fine sand and silt was found adhering to the lower part of the lacing of the work shoe (53). This soil is different in composition and color from any of the soils on and of items 56, 65, 68 and 69. The probable source of the soil on the shoe could not be determined.

The small amount of soil removed from the heels of the dress shoes (59) was significantly different from any of the other soils examined. The soil from these shoes represents a mixture of soils, the sources of which could not be determined.

No soil was found on items 54, 57 and 58.

Items 60 through 64 have been in contact with the surface of the ground. Similar debris consisting of relatively clean sand grains, decaying plant material and undecayed insect parts was removed from each item. This debris is suggestive of a shady, damp area such as a clearing in a wooded area, but nothing was found to indicate a specific locality or a specific type of vegetation. No soil or plant material was found on these items which could be associated with any of the soil or plant material from or of items 53, 56, 59, 65, 68 and 69.

The evidence is being returned to the Roanoke laboratory for return to the contributors.

STATE OF VIRGINIA
CITY/COUNTY OF Fairfax to-wit:

Elmer T. Miller

THIS day personally appeared before me, Barbara P. Money, a notary public, in and for said city/county in the Commonwealth of Virginia, Elmer T. Miller, who signed the foregoing Certificate of Analysis, before me, and after being duly sworn, made oath (1) that he performed the analysis and/or examination the results of which are herein contained, (2) that said analysis and/or examination was performed in a laboratory operated by the Division of Consolidated Laboratory Services of the Commonwealth or authorized by such Division to conduct such analysis and/or examination and (3) that this Certificate of Analysis is true and correct.

Given under my hand this 13th day of August, 19 80. Barbara P. Money Notary Public

My commission expires January 17, 19 84
bpm

Page 2 Of 2



Commonwealth of Virginia
 Department of General Services
 Division of Consolidated Laboratory Services
BUREAU OF FORENSIC SCIENCE

SUPPLEMENTAL

Received and filed, this the 26
 day of Sept, 1980
Dennis J. Allen Clerk

CERTIFICATE OF ANALYSIS

August 14, 1980

Western Laboratory
 920 S. Jefferson Street
 Room #219
 Roanoke, Virginia 24016

Tel. No. (703) 982-7192

TO: Virginia State Police
 Box 537
 Wytheville VA 24382

Attention: Special Agent W. B. Wilmore, Jr.

Your Case # 80-4-3194

FS Lab # 80W-0035

Victim(s): HALL, Gina Renee

Examiner: Richard A. Taylor

Suspect(s): EPPERLY, Stephen Matteson

Date Received 8/13/80

Evidence Submitted By: Special Agent W. B. Wilmore, Jr.

Item #70: One (1) white envelope containing three (3) 3x5 cards of latent impressions "Lifted from trunk interior of the Hall vehicle".

RESULTS OF EXAMINATIONS:

The specimens were examined and no latent prints of value for comparison purposes were found.

Item #70 was turned over to Special Agent W. B. Wilmore, Jr. on August 13, 1980 upon completion of examination.

RAT/cm

STATE OF VIRGINIA
 CITY/COUNTY OF Roanoke, to-wit:

Richard A. Taylor

THIS day personally appeared before me, Carol M. Moseley, a notary public, in and for said city/county in the Commonwealth of Virginia, Richard A. Taylor, who signed the foregoing Certificate of Analysis, before me, and after being duly sworn, made oath (1) that he performed the analysis and/or examination the results of which are herein contained, (2) that said analysis and/or examination was performed in a laboratory operated by the Division of Consolidated Laboratory Services of the Commonwealth or authorized by such Division to conduct such analysis and/or examination and (3) that this Certificate of Analysis is true and correct.

Given under my hand this 14 day of August, 1980.

Carol M. Moseley
 Notary Public

My commission expires June 19, 1982

Page 1 of 1

18



Commonwealth of Virginia
 Department of General Services
 Division of Consolidated Laboratory Services
BUREAU OF FORENSIC SCIENCE

SUPPLEMENTAL

CERTIFICATE OF ANALYSIS
 July 31, 1980

Western Laboratory
 920 S. Jefferson Street
 Room #219
 Roanoke, Virginia 24016
 Tel. No. (703) 982-7192

Received and filed, this the 26
 day of Sept, 1980
Dean J. Alkins Clerk

TO: Virginia State Police
 Box 537
 Wytheville VA 24382
 Attention: Special Agent W. B. Wilmore, Jr.

Your Case # 80-4-3194

FS Lab # 80W-0035

Victim(s): HALL, Gina Renee

Examiner: Richard A. Taylor

Suspect(s): EPPERLY, Stephen Matteson

Date Received 7/30/80

Evidence Submitted By: Special Agent W. B. Wilmore, Jr.

Item 66: One (1) green aerosol cap "from can of Bathroom Cleaner".

RESULTS OF EXAMINATIONS:

The specimen was examined and no latent prints of value for comparison purposes were found or developed.

A report concerning disposition of the evidence and the results of other requested Laboratory examinations will be furnished separately.

RAT/cm
 STATE OF VIRGINIA
 CITY/COUNTY OF Roanoke, to-wit:

Richard A. Taylor

THIS day personally appeared before me, Carol M. Moseley, a notary public, in and for said city/county in the Commonwealth of Virginia, Richard A. Taylor, who signed the foregoing Certificate of Analysis, before me, and after being duly sworn, made oath (1) that he performed the analysis and/or examination the results of which are herein contained, (2) that said analysis and/or examination was performed in a laboratory operated by the Division of Consolidated Laboratory Services of the Commonwealth or authorized by such Division to conduct such analysis and/or examination and (3) that this Certificate of Analysis is true and correct.

Given under my hand this 31 day of July, 1980.
 My commission expires June 19, 1982

Carol M. Moseley
 Notary Public

Page 1 of 1



Commonwealth of Virginia
 Department of General Services
 Division of Consolidated Laboratory Services
BUREAU OF FORENSIC SCIENCE

Received and filed, this the 26
 day of Sept. 1980
Derry J. St. Louis Clerk

SUPPLEMENTAL

CERTIFICATE OF ANALYSIS

August 26, 1980

Western Laboratory
 920 S. Jefferson Street
 Room #219
 Roanoke, Virginia 24016
 Tel. No. (703) 982-7192

TO: Virginia State Police
 Box 537
 Wytheville VA 24382

Attention: Special Agent W. B. Wilmore, Jr.

Your Case # 80-4-3194

FS Lab # 80W-0035

Victim(s): HALL, Gina Renee

Examiner: Patricia P. Hamby

Suspect(s): EPPERLY, Stephen Matteson

Date Received 7/1/80

Evidence Submitted By: Trooper C. A. Hall

- Item 1 Carpet from trunk.
- Item 2 Stain from area under carpet.

Evidence Submitted By: Trooper C. A. Hall

Date Received 7/3/80

- Item 3 Stain on leg of chair near sliding glass door.
- Item 4 Stain on light, first floor bathroom.
- Item 5 Hair found on basement steps carpet.
- Item 6 Hair and bracelet.
- Item 7 Stain from side of chair near sliding glass door.
- Item 8 Stain from light switch, first floor bathroom.
- Item 9 Stain from cabin driveway.
- Item 10 Burned cloth from cabin trash burner.
- Item 11 Stain from carpet in front of sliding glass door.
- Item 12 Stained fibers from carpet in front of sliding glass door.
- Item 13 Stain from walk in front of sliding glass door.
- Item 14 Stained rubber moulding from refrigerator.
- Item 15 Stained light switch plate from first floor bathroom.
- Item 16 Control swab.
- Item 17 Stained, plastic pitcher.
- Item 18 Stained, yellow dustpan.
- Item 19 Stained, brown shoes.
- Item 20 Golf shoe with stain and hair.
- Item 21 Mattock with stain.
- Item 22 Hair sample from S. E. Bodner.

(Continued on next page.)

IN FUTURE CORRESPONDENCE REFERENCE THIS MATTER PLEASE REFER TO THE FS LAB # ABOVE

- Item 23 Hair sample from D. J. Hall.
- Item 24 Small, white handled, hair brush.
- Item 25 "Clairol" hair curlers.
- Item 26 Large, white handled, hair brush.
- Item 27 Stain from trunk.
- Item 28 Cigarette butt from auto ashtray debris.
- Item 29 Stain from faucet handle, first floor bath.
- Item 30 Hair found on basement steps carpet.

Evidence Submitted By: Trooper C. A. Hall Date Received 7/7/80

- Item 31 Stained refrigerator door.
- Item 32 Crowbar.

Evidence Submitted By: Sergeant F. W. Duffy, Jr. Date Received 7/9/80

- Item 35 Brown high heel shoe belonging to the victim.
- Item 36 Pulled head hair sample from D. J. Hall.
- Item 37 Pulled head hair sample from S. E. Bodmer.

Evidence Submitted By: Trooper C. A. Hall Date Received 7/10/80

- Item 38 Wood chips from dock at Ron Davis home.

Evidence Submitted By: Trooper C. A. Hall Date Received 7/11/80

- Item 39 Blue towel.

Evidence Submitted By: Gary Lee Thomas Date Received 7/11/80

- Item 40 Wood chips from south end of trestle.
- Item 41 Wood chips from area "1/3 way across" trestle.
- Item 42 Wood chips from area "1/2 way across" trestle.
- Item 43 Wood chips from north end of trestle.

Evidence Submitted By: Captain G. S. Williams Date Received 7/14/80

- Item 44 Pulled body hair sample from the suspect.
- Item 45 Pulled head hair sample from the suspect.
- Item 46 Blood sample from the suspect.
- Item 47 Pulled pubic hair sample from the suspect.
- Item 48 Saliva sample from the suspect.
- Item 49 Portion of trousers.
- Item 50 Portion of carpet from Davis (King) cabin.
- Item 51 Wood chips from various places on trestle.
- Item 52 Match stick.

(Continued on next page.)

Evidence Submitted By: Captain G. S. Williams

Date Received 7/17/80

- Item 53 Black work shoe from suspect's closet.
- Item 54 Brown leather belt from suspect's closet.
- Item 55 Large yellow plastic bag with stains.
- Item 56 Shovel.
- Item 57 Blue knit pullover shirt from suspect.
- Item 58 Checked slacks from suspect.
- Item 59 One (1) pair brown dress shoes.

Evidence Submitted By: Special Agent W. B. Wilmore, Jr.

Date Received 7/21/80

- Item 60 White panties.
- Item 61 Purple body suit.
- Item 62 White pants.
- Item 63 White jacket.
- Item 64 Blue and white striped bath towel.

Evidence Submitted By: Special Agent W. B. Wilmore, Jr.

Date Received 7/30/80

- Item 66 Green plastic cap from "can of bathroom cleaner".

Evidence Submitted By: Special Agent W. B. Wilmore, Jr.

Date Received 8/6/80

- Item 67 Handkerchief with stains.

RESULTS OF LABORATORY EXAMINATIONS:

- Item 1 Group O human blood was identified in staining on the carpet from the trunk. Three (3) Caucasian pubic hairs found on the trunk carpet are not similar to the submitted pubic hairs from the suspect (Item 47). Two (2) Caucasian head hairs found are similar to the submitted head hairs from D. J. Hall (Item 36). Three (3) Caucasian head hairs found are similar to hairs from the curlers (Item 25) and different from the head hairs of D. J. Hall (Item 36). Also present is one (1) very light Caucasian head hair which is unsuitable for comparison purposes. Present with the hairs removed from the trunk carpet and in debris removed from the trunk carpet are coarse, brilliant, trilobed, synthetic fibers.
- Item 2 No blood was identified in the stain from under the trunk carpet.
- Item 3 No blood was identified on the chair leg.
- Item 4 Human blood of insufficient amount for blood type determination was identified in the stain from the light.
- Item 5 One (1) Caucasian head hair from basement steps carpet is similar to hairs from the curlers (Item 25) and different from the submitted head hairs of D. J. Hall (Item 36).
- Item 6 One (1) animal hair was found on the bracelet. The bracelet chain measures about nine (9) inches and includes a plain heart shaped piece of metal.

(Continued on next page.)

RESULTS OF LABORATORY EXAMINATIONS (CON'T.):

- Item 7 Human blood of insufficient amount for blood type determination was identified in the stain from the side of the chair.
- Item 8 Human blood of insufficient amount for blood type determination was identified in the stain from the light switch.
- Item 9 No blood was identified in the stain from the cabin driveway.
- Item 10 No blood or hairs were found on the portion of burned cloth.
- Item 11 Human blood of insufficient amount for blood type determination was identified in the stain from the carpet in front of the sliding glass door.
- Item 12 Human blood was identified on the stained carpet fibers. Additional test results indicate Group O.
- Item 13 Human blood of insufficient amount for blood type determination was identified in the stain from the walk.
- Item 14 Human blood of insufficient amount for blood type determination was identified on the rubber moulding from the refrigerator.
- Item 15 Human blood was identified on the light switch plate. Additional test results indicate Group O.
- Item 16 No blood was identified on the control swab.
- Item 17 Human blood was identified on the pitcher. Additional test results indicate Group O.
- Item 18 Group O human blood was identified on the dust pan.
- Item 19 Group O human blood was identified on the outside surface of the shoes toes. Human blood of insufficient amount for blood type determination was identified inside the left shoe.
- Item 20 Group O human blood was identified on the toe of the golf shoe. The one (1) Caucasian pubic hair found in the shoe is not similar to the submitted pubic hairs from the suspect (Item 47).
- Item 21 Human blood was identified on the mattock. Additional test results indicate Group O.
- Item 22 No examinations were conducted on the cut hairs from S. E. Bodmer and 23 and D. J. Hall.
- Item 24 No examinations were conducted on the hairs in the hair brushes. The request for their use as reference hairs was withdrawn by Trooper C. A. Hall and 26 via telephonic communication on 7-9-80 at which time he requested that Item 25 be used as a reference hair sample for G. R. Hall and D. J. Hall.
- Item 25 Several head hairs found on the curlers are not similar to the submitted head hair sample from D. J. Hall (Item 36).
- Item 27 No blood was identified in the rose colored stain from the trunk.
- Item 28 Test results indicate the presence of saliva, secretion type O on the "Marlboro" cigarette butt from the auto ashtray debris.
- Item 29 Human blood of insufficient amount for blood type determination was identified on the faucet handle.
- Item 30 The light blond colored Caucasian head hair, measuring about six (6) inches in length, found on the basement steps carpet was lost in the examination process.

(Continued on next page.)

RESULTS OF LABORATORY EXAMINATIONS (CON'T.):

- Item 31 The refrigerator door exhibits streaked beige staining which has the appearance of wiped, diluted blood staining. Human blood of insufficient quality for determination of blood type was identified on the refrigerator door. Five (5) Caucasian head hairs removed from the door are similar to hairs from the curlers (Item 25) and different from the submitted head hairs from D. J. Hall (Item 36). Two (2) Caucasian hairs and three (3) Caucasian hair fragments could not be associated with any of the submitted hair samples (Items 25, 36, 37, 44, 45, 47). Present with the hairs removed from the refrigerator door are two (2) coarse, brilliant, trilobed, synthetic fibers.
- Item 32 No blood was identified on the crowbar.
- Item 35 No blood was identified on the high heel shoe.
- Item 36 The results of examinations on the head hair sample from D. J. Hall are discussed elsewhere in this report.
- Item 37 No head hairs were found on other items of evidence which were similar to the head hair sample from S. E. Bodmer.
- Item 38 No blood was identified on the wood chips from the dock.
- Item 39 Human blood was identified on the blue towel. Additional test results indicate Group O. Several coarse, brilliant, trilobed synthetic fibers were removed from the towel. Six (6) Caucasian head hairs found on the towel are similar to hairs on the curlers (Item 25) and different from the submitted head hairs of D. J. Hall (Item 36). One (1) Caucasian pubic hair and a Caucasian pubic hair fragment found on the towel are not similar to the submitted pubic hairs from the suspect (Item 47). One (1) Caucasian hair fragment could not be associated with any of the submitted hair samples (Items 25, 36, 37, 44, 45, 47).
- Items 40 No blood was identified on the several wood chips from the trestle.
41, 42, 43
- Items 44 The results of examinations on the reference hair samples from the suspect 45 and 47 are discussed elsewhere in this report.
- Item 46 The blood sample from the suspect is Group A.
- Item 48 Test results on the saliva sample from the suspect indicate secretion type A.
- Item 49 No blood or hairs were found on the portion of trousers.
- Item 50 The carpet is comprised of coarse, brilliant, trilobed, synthetic fibers.
- Item 51 No blood was identified on the wood chips from the trestle.
- Item 52 No examinations were conducted on the match stick.
- Item 53 No blood was identified on the work shoe. One (1) Caucasian hair found on the shoe is similar to the submitted head hairs from the suspect (Item 45).
- Item 54 No blood was identified on the belt.
- Item 55 No blood was identified in the rusty brown colored staining on the plastic bag.
- Item 56 No blood was identified on the shovel.
- Item 57 No blood was identified on the pullover shirt.
- Item 58 No blood was identified on the checked slacks.
- Item 59 No blood was identified on the brown dress shoes.
- Item 60 No blood or semen was identified on the white panties.

(Continued on next page.)

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RESULTS OF LABORATORY EXAMINATIONS (CON'T.):

- Item 61 Blood was identified in several areas of brownish staining on the purple body suit. The quantity and quality of staining was insufficient for origin or blood type determination. One (1) animal hair was found on the item.
- Item 62 Blood of insufficient quality or quantity for origin or blood type determination was identified in areas of beige staining on the pants. These stains have the appearance of diffusing distinct droplets which had dried somewhat before being subjected to moisture. Two (2) animal hairs were found. Two (2) Caucasian head hairs found are similar to the head hairs on the curlers (Item 25) and different from the submitted head hairs from D. J. Hall (Item 36). One (1) Caucasian head hair found is similar to the submitted head hair sample from the suspect (Item 45).
- Item 63 Blood was identified in areas of diffused beige staining like those on Item 62. The quantity and quality of staining was insufficient for origin or blood type determination. No hairs were found.
- Item 64 Blood was identified in areas of beige staining on the striped towel. The quantity and quality of staining was insufficient for origin or blood type determination. One (1) pubic hair fragment on the towel is not similar to the pubic hair sample from the suspect (Item 47). One (1) very light Caucasian head hair found is unsuitable for comparison purposes. Several animal hair fragments were also found.
- Item 66 No blood was identified on the plastic cap. One (1) Caucasian head hair found is similar to the head hairs on the curlers (Item 25) and different from the head hair sample from D. J. Hall (Item 36).
- Item 67 Blood of insufficient quantity and quality for origin or blood type determination was identified on the handkerchief.

The results of other examinations for soil and fibers on these and other submitted evidence items will be reported separately.

Fingerprint examination results will be reported separately.

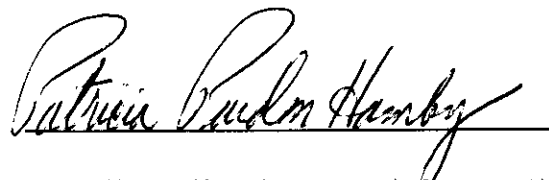
Item 20 was released to Trooper C. A. Hall on 7-11-80. Items 56 and 65 were released to Special Agent W. B. Wilmore on 8-21-80.

Additional examinations may be possible if pulled pubic hair samples (10-12 hairs each) from D. J. Hall and S. E. Bodmer are submitted for comparison with the temporarily retained evidence.

When all examinations have been completed you will be advised to pick up the evidence in the laboratory.

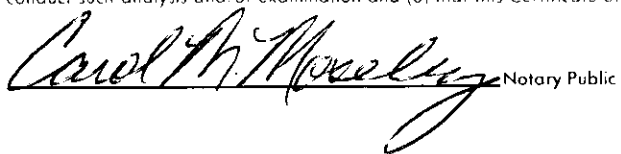
cc: Trooper C. A. Hall, Virginia State Police, Box 1339, Pulaski VA 24301
Captain G. S. Williams, Radford Police Department, Radford VA

PLPH/db
STATE OF VIRGINIA
CITY/COUNTY OF Roanoke to-wit:



THIS day personally appeared before me, Carol M. Moseley, a notary public, in and for said city/county in the Commonwealth of Virginia, Patricia P. Hamby, who signed the foregoing Certificate of Analysis, before me, and after being duly sworn, made oath (1) that he performed the analysis and/or examination the results of which are herein contained, (2) that said analysis and/or examination was performed in a laboratory operated by the Division of Consolidated Laboratory Services of the Commonwealth or authorized by such Division to conduct such analysis and/or examination and (3) that this Certificate of Analysis is true and correct.

Given under my hand this 28 day of August, 19 80.

 Notary Public

My commission expires June 19, 19 82

Page 6 Of 6



Commonwealth of Virginia
 Department of General Services
 Division of Consolidated Laboratory Services
BUREAU OF FORENSIC SCIENCE

A TRUE COPY —
TESTE:
GERRY J. ATKINSON, CLERK
BY: _____

SUPPLEMENTAL

CERTIFICATE OF ANALYSIS

August 6, 1980

Western Laboratory
 920 S. Jefferson Street
 Room #219
 Roanoke, Virginia 24016
 Tel. No. (703) 982-7192

TO: Virginia State Police
 Box 537
 Wytheville VA 24382
 Attention: Special Agent Wilmore, Jr., W. B.

Your Case # 80-4-3194

FS Lab # 80W-0035

Victim(s): HALL, Gina Renee

Examiner: Richard A. Taylor

Suspect(s): EPPERLY, Stephen Matteson

Date Received 7/21/80

Evidence Submitted By: Special Agent W. B. Wilmore, Jr.

Item 65 One (1) mattock, initial "W" on base of handle

RESULTS OF EXAMINATIONS:

The specimen was examined and no latent prints of value for comparison purposes were found or developed.

A report concerning disposition of the evidence and the results of other requested laboratory examinations will be furnished separately.

Received and filed, this the 26
 day of Sept, 1980
Gerry J. Atkinson Clerk

Richard A. Taylor

RAT/db
 STATE OF VIRGINIA
 CITY/COUNTY OF Roanoke, to-wit:

THIS day personally appeared before me, Carol M. Moseley, a notary public, in and for said city/county in the Commonwealth of Virginia, Richard A. Taylor, who signed the foregoing Certificate of Analysis, before me, and after being duly sworn, made oath (1) that he performed the analysis and/or examination the results of which are herein contained, (2) that said analysis and/or examination was performed in a laboratory operated by the Division of Consolidated Laboratory Services of the Commonwealth or authorized by such Division to conduct such analysis and/or examination and (3) that this Certificate of Analysis is true and correct.

Given under my hand this 6 day of August, 1980.

Carol M. Moseley Notary Public

My commission expires June 19, 1982.

Page 1 Of 1

26

OFFICE OF THE COMMONWEALTH ATTORNEY
PULASKI COUNTY, VIRGINIA

45 3RD STREET, N.W.
PULASKI, VIRGINIA 24301

TELEPHONE
(703) 980-0546

EVERETT P. SHOCKLEY
COMMONWEALTH ATTORNEY

FRANCIS C. TERWILLIGER
ASSISTANT COMMONWEALTH ATTORNEY

September 25, 1980

Lookabill & Warburton
Attorneys at Law
P. O. Box 1506
Pulaski, Virginia 24301

Re: Commonwealth v. Stephen Epperly

Dear Woody and Dave:

Enclosed are the results of the polygraph examination given to the above defendant. Also, enclosed are accounts of statements given by the above defendant to Trooper C. A. Hall and Captain G. S. Williams of the Radford Police Department. I still am trying to obtain from other law enforcement officers spontaneous statements made by the defendant during the course of the investigation. As soon as I am able to obtain these, I will forward a copy to you at once.

As you will recall, last week I gave you a copy of the laboratory analysis results.

Sincerely yours,


Everett P. Shockley

dcg

Enclosures

cc: Gerry J. Atkinson, Clerk

Received and filed, this the 26
day of Sept., 1980
Gerry J. Atkinson Clerk

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

STEPHEN MATTESON EPPERLY

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DISCOVERY ANSWER

Came this day the defendant, by counsel, to answer the discovery order entered in this case September 17, 1980, and states as follows:

- 1.) The defense is advised that the Commonwealth intends to show the alleged crime took place between the hours of 1:00 to 4:00 a.m., Eastern Daylight Time, June 29, 1980;
- 2.) The defense intends to produce no alibi for that time period.

Respectfully submitted,
STEPHEN MATTESON EPPERLY

By *John Warburton*
Counsel

C E R T I F I C A T E

I hereby certify that a true copy of the above discovery answer was mailed to Everett P. Shockley, Commonwealth Attorney, on the 26th day of September, 1980.

Roy David Warburton
Roy David Warburton

Received and filed, this the 26th
day of September, 1980
Henry Hutcheson Clerk

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

STEPHEN MATTESON EPPERLY

MOTION FOR
SPEEDY TRIAL

Comes this day the Defendant, Stephen Matteson Epperly, by counsel, R. Glennwood Lookabill and Roy David Warburton, to move the Court to set the date for the commencement of the prosecution of this matter at the earliest practical date.

This is a demand for a speedy trial under the provisions of the United States Constitution (Amend VI), the Virginia Constitution (Art. 1, §8), and the Code of Virginia (§19.2-243).

Respectfully submitted,

STEPHEN MATTESON EPPERLY

By *R. D. Warburton*
Counsel

C E R T I F I C A T E

I, Roy David Warburton, hereby certify that a true copy of the above motion was personally delivered to Everett P. Shockley, Commonwealth Attorney, Circuit Courthouse, Pulaski, Virginia 24301, on this the 1st day of October, 1980.

R. D. Warburton

Roy David Warburton
LOOKABILL & WARBURTON
Attorney at Law
73 Third Street, N.W.
P.O. Box 1506
Pulaski, Virginia 24301
Counsel for Defendant

Lookabill & Warburton
Attorneys at Law
Pulaski, Virginia 24301

Received and filed, this the 1st
day of October, 1980
Henry H. ... Clerk

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA)
)
)
)
 v.) O R D E R
)
)
)
 STEPHEN MATTESON EPPERLY)

Came this day the defendant, in person and by counsel, R. Glennwood Lookabill and Roy David Warburton, and the Commonwealth by its attorney, Everett P. Shockley, to present arguments on a written motion filed with this Court on September 24, 1980, regarding discovery.

After hearing arguments by all counsel, the Court is of the opinion that fundamental fairness requires access by defense attorneys to witnesses in this case, and hereby ORDERS:

1. That the Commonwealth, through and by its attorney and other agents refrain from any interference with defense efforts to interview witnesses;

2. That the defendant, through and by his attorneys, R. Glennwood Lookabill and Roy David Warburton be and hereby are authorized to talk with any witness involved in this prosecution;

and 3. That any Commonwealth witness in this prosecution cooperate with the defense attorneys in their efforts to interview;

PROVIDED, HOWEVER, that the defense attorneys refrain from asking any question about, and that any interviewed witness refrain from stating, any statement made by third parties to any agent of the Commonwealth or any other internal report, memorandum or document made by agents in connection with the prosecution of this case.

The Commonwealth having announced its intention to seek review by the Supreme Court of Virginia by a writ of prohibition, this ORDER is stayed, forthwith, to present that opportunity.

Enter this the 1st day of Oct, 1980.

R. William Arthur
R. William Arthur,
Judge

I ask for this

Roy David Warburton
Roy David Warburton, Counsel
for Stephen Matteson Epperly

Seen: ~~*~~ OBJECTED TO:

Everett P. Shockley
Everett P. Shockley,
Commonwealth Attorney, Pulaski
County



Commonwealth of Virginia
 Department of General Services
 Division of Consolidated Laboratory Services
BUREAU OF FORENSIC SCIENCE
 SUPPLEMENTAL

CERTIFICATE OF ANALYSIS
 September 30, 1980

Western Laboratory
 920 S. Jefferson Street
 Room #219
 Roanoke, Virginia 24016
 Tel. No. (703) 982-7192

TO: Virginia State Police
 Box 537
 Wytheville VA 24382

Attention: Special Agent W. B. Wilmore, Jr.

Your Case # 80-4-3194

FS Lab # 80W-0035

Victim(s): HALL, Gina Renee

Examiner: Patricia P. Hamby

Suspect(s): EPPERLY, Stephen Matteson

Date Received 7/30/80

Evidence Submitted By: Special Agent W. B. Wilmore, Jr.

Item 66: Green plastic cap from "can of bathroom cleaner".

Evidence Submitted by: Special Agent W. B. Wilmore, Jr.

Date Received 9/24/80

Item 71: Head hair sample from Mrs. Betty Mitchell Davis.

Evidence Submitted by: Special Agent W. B. Wilmore, Jr.

Date Received 9/30/80

Item 72: Knife with black handle.

RESULTS OF LABORATORY EXAMINATIONS:

Item 66: The one (1) Caucasian head hair found on the green plastic cap is different from the submitted head hairs from Mrs. Betty Mitchell Davis (Item 71).

(Continued on next page)

Received and filed, this the 3rd
 day of October, 1980
Mary Hutcheson Clerk

IN FUTURE CORRESPONDENCE REFERENCE THIS MATTER PLEASE REFER TO THE FS LAB # ABOVE

Page 1 Of 2

RESULTS OF LABORATORY EXAMINATIONS (Cont):

Item 72: No blood was identified on the knife.

The results of examinations on other items of evidence will be reported separately. When all examinations have been completed you will be advised to pick up the evidence in the laboratory.

cc: Trooper C. A. Hall, Virginia State Police, Box 1339, Pulaski, VA 24301
cc: Captain G. S. Williams, Radford Police Department, Radford, VA.

PLPH/cm
STATE OF VIRGINIA
CITY/COUNTY OF Roanoke, to-wit:

Patricia P. Hamby

THIS day personally appeared before me, Carol M. Moseley, a notary public, in and for said city/county in the Commonwealth of Virginia, Patricia P. Hamby, who signed the foregoing Certificate of Analysis, before me, and after being duly sworn, made oath (1) that he performed the analysis and/or examination the results of which are herein contained, (2) that said analysis and/or examination was performed in a laboratory operated by the Division of Consolidated Laboratory Services of the Commonwealth or authorized by such Division to conduct such analysis and/or examination and (3) that this Certificate of Analysis is true and correct.

Given under my hand this 1 day of October, 1980.

Carol M. Moseley Notary Public

My commission expires June 19, 1982

Page 2 Of 2

OFFICE OF THE COMMONWEALTH ATTORNEY
PULASKI COUNTY, VIRGINIA
45 3RD STREET, N.W.
PULASKI, VIRGINIA 24301

TELEPHONE
(703) 980-0546

EVERETT P. SHOCKLEY
COMMONWEALTH ATTORNEY

FRANCIS C. TERWILLIGER
ASSISTANT COMMONWEALTH ATTORNEY

October 6, 1980

C
Mr. R. Glennwood Lookabill
Mr. R. David Warburton
Attorneys at Law
P. O. Box 1506
Pulaski, Virginia 24301

O Re: Commonwealth v. Stephen Matteson Epperly

Dear Woodie and Dave:

P Enclosed is a supplemental Certificate of Analysis received from the State Consolidated Laboratory Services dated September 30, 1980, consisting of two pages.

Sincerely yours,

Everett P. Shockley
Everett P. Shockley

Y bat
Enclosure
cc ✓ Mr. Gerry J. Atkinson, Clerk

Received and filed, this the 6th
day of October, 1980
Gerry J. Atkinson Clerk

OFFICE OF THE COMMONWEALTH ATTORNEY
PULASKI COUNTY, VIRGINIA
45 3RD STREET, N.W.
PULASKI, VIRGINIA 24301

TELEPHONE
(703) 980-0546

EVERETT P. SHOCKLEY
COMMONWEALTH ATTORNEY

FRANCIS C. TERWILLIGER
ASSISTANT COMMONWEALTH ATTORNEY

October 22, 1980

C
Mr. R. Glennwood Lookabill
Mr. R. David Warburton
Attorneys at Law
P. O. Box 1506
Pulaski, Virginia 24301

O
Re: Commonwealth v. Stephen Matteson Epperly

Dear Woody and Dave:

P
I am writing this letter to follow up on the first discovery order entered by Judge Arthur. As you know from the laboratory analyses submitted to you, there are numerous items of physical evidence obtained by law enforcement authorities. These items are available for your inspection and examination should you so desire. If you want to inspect or examine any item mentioned in either laboratory report, I will see that this evidence be provided to you upon your request.

Y
I also have no objections to your going through the Davis house for an inspection of it. Of course, I have no authority to order them to allow you to do so, but I certainly will pose no objections.

Also, Captain Williams of the Radford Police Department has photographs of the Davis home along with photographs of scenes and items therein, which may or may not be used at trial. By copy of this letter, I will request that Captain Williams allow you to view these photographs and any other material photographs that he may have taken pertaining to this case. If you care to contact him, I am sure that he would be glad to meet with you at a time that is convenient for both.

I am sure that I have sent you copies of two Certificates of Analysis, one dated August 26, 1980, and one dated September 30, 1980; the examiner for each being Patricia P. Hamby. I am not sure whether I have delivered to you copies of the Certificates of Analysis

Received and filed, this the 24
day of Oct, 1980
Alvin Hamby Clerk
Pulaski County, Virginia

35

Mr. R. Glennwood Lookabill
Mr. R. David Warburton
Page 2
October 22, 1980

dated July 7, 1980, and July 8, 1980, both concerning the examination by Richard A. Taylor. In case I have not previously delivered these to you, I have enclosed copies for your benefit.

As I am sure you know, prior to your appointment a search warrant was obtained compelling the defendant to give a sample of his blood. I am fairly certain that the sample was taken and typed at the Radford Community Hospital. I am assuming that there will be no challenge to the search warrant and that we can stipulate his type of blood or produce the examiner from the hospital to testify. Would you please let me know if this is agreeable with you, otherwise I will have to present an order to Judge Arthur compelling him to give a sample of his blood or take necessary steps via a subpoena duces tecum to produce medical records in the hands of some third party. This would seem to be a useless and unnecessary task. In any event, I would appreciate some communication from you on this matter.

I will look forward to hearing from you in the near future.

Sincerely yours,


Everett P. Shockley

bat

Enclosure

cc ✓ Mr. Gerry J. Atkinson, Clerk
Captain G. S. Williams
Mr. Walt Wilmore

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Friday the 24th day of October, 1980.*

Before a Division of the Supreme Court of Virginia

In Re: The Commonwealth of Virginia, Petitioner

Record No. 801692

Upon a Petition for a Writ of Prohibition

On consideration of the petition of the Commonwealth of Virginia, by her Attorney for Pulaski County, praying that a writ of prohibition do forthwith issue, and the answer of the respondent, the Honorable R. William Arthur, Judge of the Circuit Court of Pulaski County, it is adjudged and ordered that a writ of prohibition be and the same hereby is awarded, directed to the respondent, prohibiting him, or anyone on his behalf, from enforcing that part of an order entered by him on October 1, 1980, in the case of Commonwealth of Virginia v. Stephen Matteson Epperly by which part he has ordered "That any Commonwealth witness in this prosecution cooperate with the defense attorneys in their efforts to interview; PROVIDED, HOWEVER, that the defense attorney refrain from asking any question about, and that any interviewed witness refrain from stating, any statement made by third parties to any agent of the Commonwealth or any other internal report, memorandum or document made by agents in connection with the prosecution of this case."

The Clerk of this Court shall certify copies of this order to the petitioner, to the respondent, to the Clerk of the Circuit Court of Pulaski County, and to counsel for Stephen Matteson Epperly, which certification shall have the same force and effect as if a writ of prohibition were formally issued and served.

A Copy,

Teste:

Allen L. Frazier
Clerk

Lookabill & Warburton

ATTORNEYS AT LAW
POST OFFICE BOX 1506
PULASKI, VIRGINIA 24301

R. GLENNWOOD LOOKABILL
ROY DAVID WARBURTON

October 31, 1980

73 THIRD STREET, N.W.
COURTHOUSE SQUARE
(703) 980-0220

Everett P. Shockley, Esq.
Commonwealth Attorney
Pulaski, Virginia 24301

RE: COMMONWEALTH v. STEPHEN MATTESON EPPERLY

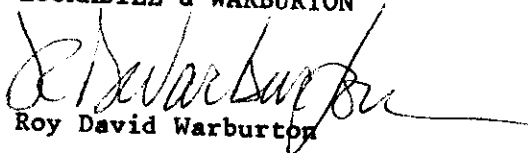
Dear Everett:

I have and thank you for your letter of October 22, 1980, outlining defense access to physical evidence.

Regarding your request for a blood sample, we will be happy to cooperate and proceed with the sample already taken by personnel at the Radford Community Hospital. We will, however, request proof of the blood type by production of the laboratory technician(s).

Sincerely,

LOOKABILL & WARBURTON


Roy David Warburton

RDW:jmc

cc: Stephen M. Epperly
Gerry J. Atkinson, Clerk

Received and filed, this the 31
day of October, 1980
Mary Hutchinson Clerk
Pulaski

38

GIESEN - CALDWELL AGENCY, INC.

PHONE 639-1322
639-1444

ARTHUR R. GIESEN, BROKER
104 WADSWORTH STREET - BOX 342B FIRST ST. STATION
RADFORD, VIRGINIA 24141

REAL ESTATE
SALES - APPRAISALS

November 5, 1980

Mr. Cubid Epperly
905 Second Street
Radford, Va. 24141

Appraisal Report: 905 Second Street, Radford, Virginia

LEGAL

Lots 7-18, Section 4, Plan B, Radford Land and Improvement Company Map, City of Radford, Virginia.

LOCATION

Appraised property is located on the Northwest corner of Second and Wirt Streets in the West Ward, City of Radford.

LAND

Land has 250' frontage on the North Side of Second Street with a depth of 150' on the West side of Wirt Street to a 20' alley. The dwelling is situated on the lot so that there would be an additional lot of 150' x 150', with 100' x 150' being designated with the dwelling. Surface drainage is satisfactory.

PURPOSE OF APPRAISAL

The purpose of this appraisal is to estimate Fair Market Value. Fair market value may be defined as the highest price estimated in terms of money which a property will bring, if exposed upon the open market for a reasonable length of time, provided both parties are fully informed, acting voluntarily, and further, that all benefits inherent in or attributable to the property are included in the transfer.

FLOOD CONDITIONS

Appraised property is not located in a HUD designated flood hazard area. There are no lakes, rivers, or streams in the area which pose a flood hazard.

UTILITIES

All City utilities are available to the site.



10
No. 80
By: *Arthur Giesen*
Pulaski

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ZONING

Area is zoned B-2, Business General.

IMPROVEMENTS

Located on the lot is an older type stucco dwelling with metal roof and 100% basement. Part is one story, being approximately 36' x 14' and part is two story, this section being approximately 22' x 24'. There are two porches, 8' x 23' and 6' x 12'. Dwelling contains about 1556 sq. ft. There are a total of nine rooms and two baths. Floors are wall to wall carpeting. Heat is oil fired forced air.

COST APPROACH

A cost approach is not generally applicable to a dwelling of this vintage. Highest and best use of the land will be as a business site and it is considered that the land would have a value of \$70 per front foot, or \$17,500.

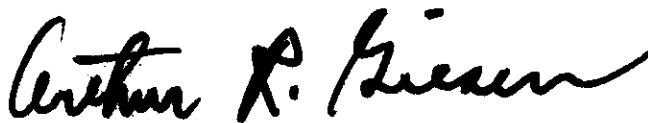
COMPARABLES

Recent sales and current offerings were considered in this appraisal.

CONCLUSION

Estimated Present Day Fair Market Value of Home Site and Dwelling (Lot 100' x 150')	\$48,750
Estimated Present Day Fair Market Value of Remaining Land Lot being 150' x 150'	<u>14,500</u>
	\$63,250

Respectfully submitted,



Arthur R. Giesen, Member
American Association of
Certified Appraisers



41



42

NAME: Epperly, Cubid
 ADDRESS OF PROPERTY: 905 Second Street
 DESCRIPTION: Lot 7 thru 18 - Sec. 4 - Plan B RL&I Co.

USE	CONSTRUCTION		EXT. WALLS		INT. WALLS		ROOFING		GENERAL FEATURES		PLUMBING		HEATING	
	Wood Frame	Steel Frame	Wood Siding	Wood Shingles	Plaster	Sheet Rock	Metal	State	# Stories	# Rooms	Full Baths	Tile	Hot Water	Con.
Dwelling	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>											
Apartment														
Store														
Garage														
Service Station														
Factory														
Office														

YEAR BUILT: _____

Show: Calculations or Capitalization Used

CLASSIFICATION: F

MAIN BUILDING CALCULATIONS

Width	X	Length	X	Height	X	Sq. or Cu. Ft.	X	Rate	X	Value
22	X	24	X	2	X	1056	X	14	X	14800
36	X	14	X	1	X	504	X		X	
	X		X		X		X		X	
	X		X		X		X		X	
Additional Improvements <u>BRICK 2400 = 17500</u>										
Sub Total <u>6000 = 12000</u>										
Depreciation										
Obsolescence										
Total Value Main Building <u>20700</u>										

OUTBUILDINGS - IMPROVEMENTS

Use	Construction	Condition	Size or Remarks	Rate	Value
Garage	Frame			14	
Appraised Value All Improvements					

LAND CALCULATIONS

APARTMENTS - NOTES		Services Furnished		Total Number Front or Square Feet		Appraised Value
No. Units	Monthly Rental	Annual Service Cost	Janitor	Basement Unit Value	Number Fr. or Sq. Feet	
1			Heat	70	150	14,800
2			Water			
3			Lights & Gas			
4			Refrigerators			
5			Stoves			
6			Furnished			
Total Area and Land Value						14,800

BUILDING PERMITS OR REAPPRAISALS

Number	Date	Kind	Amount		% of Comp.
			Year	Land	
			1979		
			14,800		
			20,900		
			37,800		

AFFIDAVIT OF SURETY

The undersigned state under oath that the following information is true:

Cubid Epperly and Esther Epperly

(Names of All Owners of Property Pledged as Security)

905 Second Street Conner of 2nd & Wirt St, Radford, Virginia

(Address of Property)

Property 2 story stucco house 9 rooms 2 baths Location Commercial Property Lots 7-18
1 part of house one story (Description of Property) Radford, Virginia
1 part two story Section 4 plan B

Assessed Value Commissioner of Revenue 37,830.00
Fair market value of property: Apprasal by Giesen & Caldwell \$ 63,250.00

Less encumbrances to title:

Mortgages or deeds of trust \$ 13,000.00
Unpaid taxes \$
Unsatisfied judgments \$
Other surety bonds \$
Other (assessments, mechanic's liens, etc.) Specify type of lien. \$
Total Encumbrances \$

NET EQUITY \$ 50,250.00

The undersigned further state they are the sole owners of the property, that there are no other encumbrances on the property and that no other person, group, or entity has any equity interest in the property described above.

Cubid Epperly
Name (Print or Type)

Cubid Epperly (seal)
Signature

Esther Epperly
Name (Print or Type)

Esther Epperly (seal)
Signature

Name (Print or Type)

Signature (seal)

Sworn/Affirmed and signed before me this day:

(Date of Attestation)

Jana Lawson
Clerk [X] Magistrate [] Notary Public

CONDITIONS OF RELEASE AND RECOGNIZANCE

The Accused promises to appear before the Circuit Court Pulaski, Virginia

General District Court (Criminal Division Traffic Division)
 Juvenile and Domestic Relations District Court Circuit Court

3rd St., Pulaski, Virginia
12/8/80 9:30 A/M

The Accused further promises to appear to answer for the offenses for which he may be charged at all times and places and before any court or judge to which this case may be rescheduled, continued, transferred, certified or appealed. The Accused promises not to depart the Commonwealth of Virginia without leave of such court or judge, to keep the peace and be of good behavior until final disposition of this case.

OTHER CONDITIONS ON REVERSE SIDE
I, the Accused, hereby promise to fulfill faithfully the conditions given above
Stephen M. Epperly
(A copy)

WARNING: Failure to fulfill the terms conditions above or any violation thereof may result in your arrest and forfeiture of the bond on the lower portion of this page (if applicable). Failure to appear may result in your being tried and convicted in your absence. Failure to appear is a separate offense. If bonded to appear in circuit court on a misdemeanor charge, failure to appear constitutes waiver of trial by jury.

The accused is released into the custody of the person/organization named below, on the condition that said custodian make all reasonable effort to ensure that the accused fulfill the conditions given above, and that any violation by or disappearance of the accused be promptly reported to the court.
Cubid Epperly 905 2nd St., Radford, Va.
Esther Epperly 905 2nd St., Radford, Va.

Name of ~~XXXXXX~~ Parents Esther Epperly Signature of ~~XXXXXX~~ Parents
Address 905 2nd St., Radford, Va.

F ID The Accused, and Surety(ies) (if any), each hereby acknowledges himself, his heirs and assigns indebted to Commonwealth of Virginia for City or Locality named above in the sum of \$ 50,000.00
SECURED by: CASH DEPOSIT SURETY BOND REAL PROPERTY located at: UNSECURED

(and if secured by real property, the undersigned, having demonstrated to the officer taking this bond the nature of their interest in the property, also make oath that the equity of the undersigned in the property equals or exceeds the amount of this bond). The undersigned each waives all benefit of homestead exemptions as to this debt and further covenants jointly and severally that none of them shall permit or cause title to or possession of the property pledged to secure this bond to be transferred in any manner to any degree or encumbered to the extent of this obligation. The above terms of the conditions of Release and Recognition are hereby incorporated by reference.

If the Accused shall faithfully fulfill the conditions of release and recognizance given above, this debt is to be void; otherwise this debt is to remain in full force and effect until declared void by a Court of competent jurisdiction.

Esther Epperly SURETY
Cubid Epperly SURETY
Stephen M. Epperly ACCUSED

HEARING DATE 12/8/80 9:30 A/M FILE NO.

CONDITIONS of RELEASE RECOGNIZANCE, and BOND

RETURNABLE TO:
Stephen Matteson Epperly
ACCUSED
905 2nd St.
Radford, Va.

General District Court (CRIMINAL)
General District Court (TRAFFIC)
Juvenile & Domestic Relations District Court
 Circuit Court

DATE RECEIVED	DATE DISBURSED/DISCHARGED
BOND AMOUNT	RECEIPT NO. (IF CASH DEPOSIT)
\$ 50,000.00	

ADMITTANCE TO BAIL: The promise to fulfill the conditions of release, and the bond, if any, were subscribed and sworn to before me this day. The Accused is ordered released pursuant to the terms within.
Anna Dawson
CLERK MAGISTRATE JUDGE
12-8-80 4:30 P/M
DATE AND TIME

SURETY: Name(s), Address(es), and if corporate surety, name(s) of authorized agent(s).
Cubid Epperly
Esther Epperly
905 2nd Street
Radford, Virginia

CONDITIONS OF RELEASE AND RECOGNIZANCE

VA CODE ANN § 19.2-123.192, 192-258

The Accused promises to appear before the Circuit Court Pulaski, Virginia
CITY OR COUNTY

- General District Court (Criminal Division Traffic Division)
- Juvenile and Domestic Relations District Court Circuit Court

3rd St. Pulaski, Virginia

(STREET ADDRESS OF COURT)

12/8/80 9:30 A/M

DATE AND TIME

to answer the following charge(s) against the accused.

(continued on back)

The Accused further promises to appear to answer for the offenses for which he may be charged at all times and places and before any court or judge to which this case may be rescheduled, continued, transferred, certified or appealed. The Accused promises not to depart the Commonwealth of Virginia without leave of such court or judge, to keep the peace and be of good behavior until final disposition of this case.

OTHER CONDITIONS ON REVERSE SIDE

I, the Accused, hereby promise to fulfill faithfully the conditions given above

Stephen M. Epperly
(Accused)

WARNING: Failure to fulfill the terms conditions above or any violation thereof may result in your arrest and forfeiture of the bond on the lower portion of this page (if applicable). Failure to appear may result in your being tried and convicted in your absence. Failure to appear is a separate offense. If bonded to appear in circuit court on a misdemeanor charge, failure to appear constitutes waiver of trial by jury.

The accused is released into the custody of the person/organization named below, on the condition that said custodian make all reasonable effort to ensure that the accused fulfill the conditions given above, and that any violation by or disappearance of the accused be promptly reported to the court.

Cubld Epperly 905 2nd St. Radford, Va.
Esther Epperly 905 2nd St. Radford, Va.

Name of SURETY Parents

Address

Signature of SURETY Parents

BOND The Accused, and Surety(ies) (if any), each hereby acknowledges himself, his heirs and assigns indebted to Commonwealth of Virginia for City or Locality named above in the sum of \$ 50,000.00
SECURED by: CASH DEPOSIT SURETY BOND REAL PROPERTY located at: UNSECURED

(and if secured by real property, the undersigned, having demonstrated to the officer taking this bond the nature of their interest in the property, also make oath that the equity of the undersigned in the property equals or exceeds the amount of this bond). The undersigned each waives all benefit of homestead exemptions as to this debt and further covenants jointly and severally that none of them shall permit or cause title to or possession of the property pledged to secure this bond to be transferred in any manner to any degree or encumbered to the extent of this obligation. The above terms of the Conditions of Release and Recognizance are hereby incorporated by reference.

If the Accused shall faithfully fulfill the conditions of release and recognizance given above, this debt is to be void; otherwise this debt is to remain in full force and effect until declared void by a Court of competent jurisdiction.

(114-9-702 7/80)

FORM DC-330 1/80

SURETY

SURETY

SEAL

ACCUSED

SEAL

HEARING DATE 12/8/80 9:30 AM FILE NO.

CONDITIONS OF RELEASE RECOGNIZANCE, and BOND

Stephen Matteason Epperly
ACCUSED

905 2nd St. Radford, VA.

RETURNABLE TO:

- General District Court (CRIMINAL)
- General District Court (TRAFFIC)
- Juvenile & Domestic Relations District Court
- Circuit Court

DATE RECEIVED	DATE DISBURSED/DISCHARGED
BOND AMOUNT	RECEIPT NO. (IF CASH DEPOSIT)
<u>\$ 50,000.00</u>	

ADMITTANCE TO BAIL: The promise to fulfill the conditions of release, and the bond, if any, were subscribed and sworn to before me this day. The Accused is ordered released pursuant to the terms within.

Shirley Dawson
CLERK MAGISTRATE JUDGE

11-7-80 4:30 PM
DATE AND TIME

SURETY: Name(s), Address(es), and if corporate surety, name(s) of authorized agent(s).

Cubld Epperly
Esther Epperly
905 2nd Street
Radford, Virginia

CONDITIONS OF RELEASE AND RECOGNIZANCE

VA CODE ANN §19.2-151, 19.2-254

The Accused promises to appear before the Circuit Court Pulaski, Virginia
CITY OR COUNTY

- General District Court (Criminal Division Traffic Division)
- Juvenile and Domestic Relations District Court Circuit Court

3rd St. Pulaski, Virginia
(STREET ADDRESS OF COURT)

12/8/80 9:30 A/M DATE AND TIME to answer the following charge(s) against the accused, continued on back)

The Accused further promises to appear to answer for the offenses for which he may be charged at all times and placed and before any court or judge to which this case may be rescheduled, continued, transferred, certified or appealed. The Accused promises not to depart the Commonwealth of Virginia without leave of such court or judge, to keep the peace and be of good behavior until final disposition of this case.

OTHER CONDITIONS ON REVERSE SIDE

I, the Accused, hereby promise to fulfill faithfully the conditions given above
Stephen M. Epperly
(Accused)

WARNING: Failure to fulfill the terms conditions above or any violation thereof may result in your arrest and forfeiture of the bond on the lower portion of this page (if applicable). Failure to appear may result in your being tried and convicted in your absence. Failure to appear is a separate offense. If bonded to appear in circuit court on a misdemeanor charge, failure to appear constitutes waiver of trial by jury.

The accused is released into the custody of the person/organization named below, on the condition that said custodian make all reasonable effort to ensure that the accused fulfill the conditions given above, and that any violation by or disappearance of the accused be promptly reported to the court.

Cubld Epperly 905 2nd St. Radford, Va.
Esther Epperly 905 2nd St. Radford, Va.
Name of Surety Parents Address
Signature of Cubld Epperly
Parent

BOND The Accused, and Surety(ies) (if any), each hereby acknowledges himself, his heirs and assigns indebted to Commonwealth of Virginia for City or Locality named above in the sum of \$ 50,000.00
SECURED by: CASH DEPOSIT SURETY BOND REAL PROPERTY located at: UNSECURED

(and if secured by real property, the undersigned, having demonstrated to the officer taking this bond the nature of their interest in the property, also make oath that the equity of the undersigned in the property equals or exceeds the amount of this bond). The undersigned each waives all benefit of homestead exemptions as to this debt and further covenants jointly and severally that none of them shall permit or cause title to or possession of the property pledged to secure this bond to be transferred in any manner to any degree or encumbered to the extent of this obligation. The above terms of the Conditions of Release and Recognition are hereby incorporated by reference.

If the Accused shall faithfully fulfill the conditions of release and recognizance given above, this debt is to be voided; otherwise this debt is to remain in full force and effect until declared void by a Court of competent jurisdiction.

(114:9-702 7/80)
FORM DC-330 1/80
SURETY SURETY
Stephen M. Epperly (SEAL) SURETY
Stephen M. Epperly (SEAL) SURETY
Stephen M. Epperly (SEAL) ACCUSED

HEARING DATE 12/8/80 9:30 A/M FILE NO.

CONDITIONS OF RELEASE RECOGNIZANCE, and BOND

Stephen Matteson Epperly
ACCUSED

905 2nd St. Radford, Va.
RETURNABLE TO: Radford, Va. TA No.

- General District Court (CRIMINAL)
- General District Court (TRAFFIC)
- Juvenile & Domestic Relations District Court
- Circuit Court

DATE RECEIVED	DATE DISBURSED/DISCHARGED
BOND AMOUNT	RECEIPT NO. (IF CASH-DEPOSIT)
<u>\$ 50,000.00</u>	

ADMITTANCE TO BAIL: The promise to fulfill the conditions of release, and the bond, if any, were subscribed and sworn to before me this day. The Accused is ordered released pursuant to the terms within.

John J. [Signature]
CLERK MAGISTRATE JUDGE

12-7-80 9:30 A.M.
DATE AND TIME

SURETY: Name(s), Address(es), and if corporate surety, name(s) of authorized agent(s).

Cubld Epperly
Esther Epperly
905 2nd Street
Radford, Virginia

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Patricia Hamby - c/o Bureau of Scientific Services, 515 E. Woodruff Road,
Joliet, Illinois 60432

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during
the.....November.....term, 19.80, of the said Court, at.....9:15.....o'clock,.....A.M., on the.....8th.....
day of.....December.....19.80..... next, to testify and the truth to speak in behalf of the Common-
wealth of Virginia in a certain matter of controversy in said Court depending between the said Common-
wealth and.....Stephen Matteson Epperly.....Defendant(s).

And this.....you.....shall in nowise omit and shall not depart thence without leave
of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on
the.....5th.....day of.....November....., 19.80, in the.....204th.....year
of the Commonwealth of Virginia.

BY EVERETT'S INSTRUCTION,
THIS SUBPOENA WAS MAILED DIRECTLY

Everett P. Shockley
Attorney for the Commonwealth
Pulaski County, Virginia

48

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Mr. John Preston - RD-1, Galeton, PN.....

.....
.....
.....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 19 80, of the said Court, at 9:15 o'clock, A.M., on the 8th

day of December 19 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 5th day of November, 19 80 in the 204th year of the Commonwealth of Virginia.

MAILED DIRECTLY

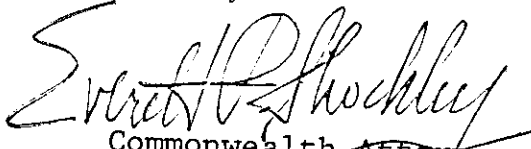
Everett P. Shockley
Attorney for the Commonwealth
Pulaski County, Virginia

49

TO SHERIFF A. J. WINSTON, CITY OF
RICHMOND SHERIFF'S DEPARTMENT:

Please serve the enclosed subpoena
on the appropriate person at once.
Thank you for your cooperation in
this matter. Should you have any
questions or problems, please contact
my office.

Thank you.


Commonwealth Attorney
for Pulaski County

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

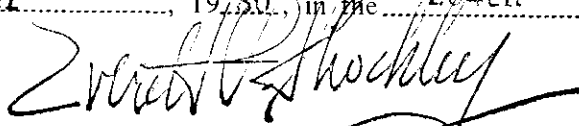
We command you to summon.....

Robyn Robinson - c/o Stuart McGuire, 115 Brand Rd., Salem

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 19 80, of the said Court, at 9:15 o'clock, A.M., on the 3th day of December 19 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 13th day of November, 19 80, in the 204th year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

54

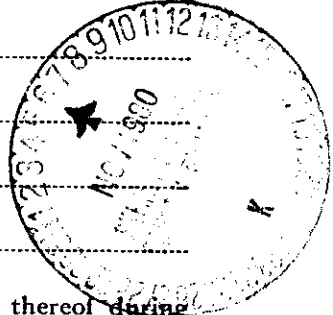
The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Robin Porter - c/o Bureau of Forensic Science, 1 North 14th Street,
Richmond, Virginia

Resist



to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during
the November term, 1980, of the said Court, at 9:15 o'clock, A.M., on the 8th
day of December 1980 next, to testify and the truth to speak in behalf of the Common-
wealth of Virginia in a certain matter of controversy in said Court depending between the said Common-
wealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave
of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on
the 5th day of November, 1980, in the 204th year
of the Commonwealth of Virginia.

Everett P. Shockley

Attorney for the Commonwealth
Pulaski County, Virginia

50

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

Executed on the 2 day of Nov, 1880 within
the City of Richmond on Robert Porter
at his or her usual place of business as employ-
ment during business hours; a copy
of the within subpoena is being served of
its purport to Harold Smith was
found there in charge of said premises.

I, W. H. Cannon, Sheriff
By: W. H. Cannon
Deputy Sheriff

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Rita Herold - Moffitt Dorm, Rm. 320 West, Radford University, Radford

Diane Tate - " " Rm. 322 West, " " "

Beth Cook - " " " " " "

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the.....November.....term, 1980., of the said Court, at.....9:15 o'clock, A.M., on the 8th.....day of.....December.....1980.....next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and.....Stephen Matteson Epperly.....Defendant(s).

And this.....you.....shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the.....13th.....day of.....November....., 1980, in the 20th.....year of the Commonwealth of Virginia.

Attorney for the Commonwealth
Pulaski County, Virginia

51

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

Executed on the 13 day of Nov,
1980, in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to
Beth Cook

_____ in person
B. J. Tanner
SHERIFF, CITY OF RADFORD, VA.
BY _____ DEPUTY SHERIFF

Executed on the 13 day of Nov,
1980, in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to
Erane Tate

_____ in person
B. J. Tanner
SHERIFF, CITY OF RADFORD, VA.
BY _____ DEPUTY SHERIFF

Executed on the 13 day of Nov,
1980, in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to
Rita Herald

_____ in person
B. J. Tanner
SHERIFF, CITY OF RADFORD, VA.
BY _____ DEPUTY SHERIFF

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Arthur Giesen - c/o Giesen-Caldwell Agency, 104 Wadsworth Street,
Radford, VA

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during
the..... November..... term, 1980, of the said Court, at..... 11:00 o'clock, A.M., on the 17th.....
day of..... November..... 19 80..... next, to testify and the truth to speak in behalf of the Common-
wealth of Virginia in a certain matter of controversy in said Court depending between the said Common-
wealth and..... " Stephen Matteson Epperly..... Defendant(s).

And this..... you..... shall in nowise omit and shall not depart thence without leave
of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on
the..... 13th..... day of..... November....., 19 80, in the..... 204th..... year
of the Commonwealth of Virginia.

Attorney for the Commonwealth
Pulaski County, Virginia

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

Executed on the 13 day of Nov
1920, in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to

Arthur Henson
_____ in person

B. F. Jensen
SHERIFF, CITY OF RADFORD, VA.

BY _____ DEPUTY SHERIFF

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

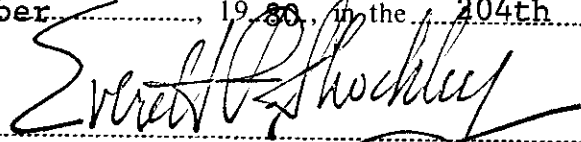
We command you to summon.....

Robyn Robinson - c/o Stuart McGuire, 115 Brand Rd., Salem.....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 19 80 of the said Court, at 9:15 o'clock, A.M., on the 8th day of December 19 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 13th day of November, 19 80, in the 204th year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

53

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

Not executed on the within named

Robyn Robinson

has not been found in my bailiwick this the 14

day of November, 19 50

ROBERT D. OBENSHAW, JR. Sheriff, City of Salem, Va.

By Richard F. Long Deputy Sheriff

no person by this name
works at Stuart McGuire

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA)	
)	
v.)	MOTION FOR CHANGE OF VENUE
)	
STEPHEN MATTESON EPPERLY)	

TO: THE HONORABLE R. WILLIAM ARTHUR, JUDGE OF SAID COURT:

The defendant, STEPHEN MATTESON EPPERLY, in person, and by his attorneys, R. Glennwood Lookabill and Roy David Warburton, hereby move this Honorable Court for a change in venue from Pulaski County, Virginia, to a sufficiently remote County in this State to insure that the said defendant receives a safe, fair, and impartial trial of his case. This motion is based upon the publicity surrounding this case which has permeated the public mind through the printed and electronic media.

Stephen M. Epperly

 STEPHEN MATTESON EPPERLY

R. Glennwood Lookabill

 R. GLENNWOOD LOOKABILL

Roy David Warburton

 ROY DAVID WARBURTON

STATE OF VIRGINIA

COUNTY OF PULASKI, to-wit:

Subscribed and sworn before me this 17th day of November, 1980.

My Commission expires: _____

Wm. Arthur

 Notary Public
 Clerk of the Circuit Court

*Filed 11/17/80
 Lookabill*

CERTIFICATE

We hereby certify that a true copy of the foregoing Motion was hand delivered to Everett P. Shockley, Esq., Commonwealth Attorney for Pulaski County, Virginia, this 17th day of November, 1980.

R. Glennwood Lookabill

J. Warburton

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA)
)
)
v.) MOTION IN LIMINE
)
)
STEPHEN MATTESON EPPERLY)

Comes this day the defendant, STEPHEN MATTESON EPPERLY, by his previously-appointed counsel, R. Glennwood Lookabill and Roy David Warburton, to move the Court for relief in limine as follows:

1.) The defendant believes the Commonwealth, by its Attorney for Pulaski County and/or witnesses, intends to introduce evidence of the activities of trained dogs, dog trainer(s), witnesses of the above activities, and related events.

2.) The defendant urges that such evidence is inadmissible because the scientific basis for it is not proven; the events were too remote to project reliability; the circumstances were substantially altered, further eroding any reliability; and the probative value, if any, is greatly outweighed by the severe prejudice to the defendant.

WHEREFORE, your defendant prays that the Court enter an order preventing the Commonwealth, by its Attorney and/or its witnesses from any attempt to proffer said evidence at trial or from mentioning any of said evidence in any manner to any member of the venire or jury in this matter.

Respectfully submitted,

STEPHEN MATTESON EPPERLY

By R. Glennwood Lookabill
R. Glennwood Lookabill

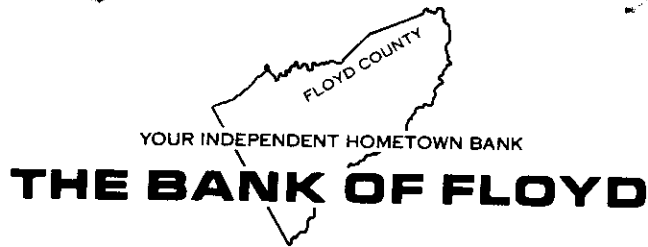
R. David Warburton
Roy David Warburton
Of Counsel

7-17-80
M. A.

CERTIFICATE

We hereby certify that a true copy of the foregoing Motion in limine was hand delivered this 17th day of November, 1980, to Everett P. Shockley, Esq., Commonwealth Attorney for Pulaski County, Virginia.

R. Glennwood Lookabill
Warburton



M. R. AGEE
SENIOR VICE PRESIDENT

November 18, 1980

To Whom It May Concern:

At the request of Harry B. Christie, Jr., we give you the following information concerning his business property located on East Main Street, Town of Floyd, Virginia.

Title to this property is held by Harry B. Christie, Jr. and Ruth S. Christie, husband and wife. This Bank holds a first lien Deed of Trust against the property, originated July 31, 1978 in an amount of \$47,500.00, with an unpaid principal balance at this date in the amount of \$45,306.17.

This information is furnished at the request of Harry B. Christie, Jr. and we shall be glad to release any further information concerning this property that you may need and that he would authorize.

Yours very truly,

A handwritten signature in cursive script that reads "M. R. Agee".

M. R. Agee
Senior Vice President

MRA/klb

AFFIDAVIT OF SURETY

The undersigned state under oath that the following information is true:

HARRY B & Ruth CHRISTIE
(Names of All Owners of Property Pledged as Security)

E. MAIN ST Floyd VA
(Address of Property)

E MAIN ST Willis LOT LOT 2
(Description of Property)

Fair market value of property: \$ 66,600.00

Less encumbrances to title:

Mortgages or deeds of trust	\$ 45,306. ¹⁷
Unpaid taxes	\$ -
Unsatisfied judgments	\$ -
Other surety bonds	\$ -
Other (assessments, mechanic's liens, etc.) Specify type of lien.	\$ -
Total Encumbrances	\$ 45,306.¹⁷

NET EQUITY \$20,293.83

The undersigned further state they are the sole owners of the property, that there are no other encumbrances on the property and that no other person, group, or entity has any equity interest in the property described above.

..... (seal)
Name (Print or Type)	Signature
Ruth CHRISTIE	Ruth CHRISTIE (seal)
Name (Print or Type)	Signature
HARRY B. CHRISTIE	HARRY B. CHRISTIE (seal)
Name (Print or Type)	Signature

Sworn/Affirmed and signed before me this day:

7/10 19 1950
(Date of Attestation)

Barry S Moore
 Clerk Magistrate Notary Public

TOWN OF FLOYD

MAP NO. 55A2-(5)-2

RECORD OF OWNERSHIP

DB.	PG.	DATE	CONSID. ERATION
	102	8/10/71	2 Lots \$35,000
	124	4/3/78	OFF- 3/78 \$

DESCR. E Main St., Willis Lot, Lot 2

SUBD.

LOT _____ BLOCK _____ SECTION _____

ACREAGE _____

CLASSIFICATION _____

YEAR	VALUE OF LAND	VALUE OF IMPROVEMENTS	TOTAL VALUE	TAX RATE	TOTAL LEVIES
78	13000	29000	42000	7.12	297.00
80	13000	44400	57400		315.70

REMARKS OFF-0-09 A. To Commonwealth of Va.

Notes:

BUILDING PERMITS

No.	Type	Date	% of Comp.	Value

NAME _____ ADDRESS _____

DESCRIPTION _____ Lot 106 B _____ Map No. _____

MAIN BUILDING	CONSTRUCTION	EXTERIOR FINISH	INTERIOR FINISH	ROOFING	GENERAL FEATURES	PLUMBING & HEATING
Dwelling	Wood Frame	Wood Siding	Plaster	Comp. Sh.	Year Built	BATHS Full <input checked="" type="checkbox"/> 1/2 Bath
<i>Steel Frame</i>	Cin. Block	Brick	Sheet Rock	Slate	No. Rooms	Total No. Plumbing Fixtures []
	Steel Frame	Asp. Wood Shg.	Calced	Asbestos	No. Bedrooms	Basement <input checked="" type="checkbox"/> Full
		Cin. Block	Panel	Asbestos	No. Stories	BASE FIN <input checked="" type="checkbox"/> Full
		Stucco	Tile	Tar & Grav.	Foundation	FIREPLACES <i>4</i> Chimneys
		Aluminum		ATTIC FINISH	Floors <i>Concrete</i>	Cent. Heat <i>W.A.</i>
				Disappearing Stairs	Notes: <i>1. side door y.t.c.</i>	Cent. A/C [] Modern Kitchen
				Attic Floor & Stairs		Stove(s) [] Modern Bath
						Storm Doors <input type="checkbox"/> Storm Wind

SUMMARY OF BUILDINGS

Use	Type	Grade	Age	Remod.	Cond.	Replacement Value	Phys. Dep.	Func. Obsol.	Econ. Obsol.	Market Value
Dwelling										
Commercial Building										
Cent. A/C										
Basement										
Burnt Finish										
Attic										
Fireplace(s)										
Heating										
Plumbing										
Total										

DATE / 5-1-75 Not Home Time: AM PM

CLASSIFICATION 4 INFORMATION BY _____

Factor _____ Own Ten Emp.

Regl. Value _____

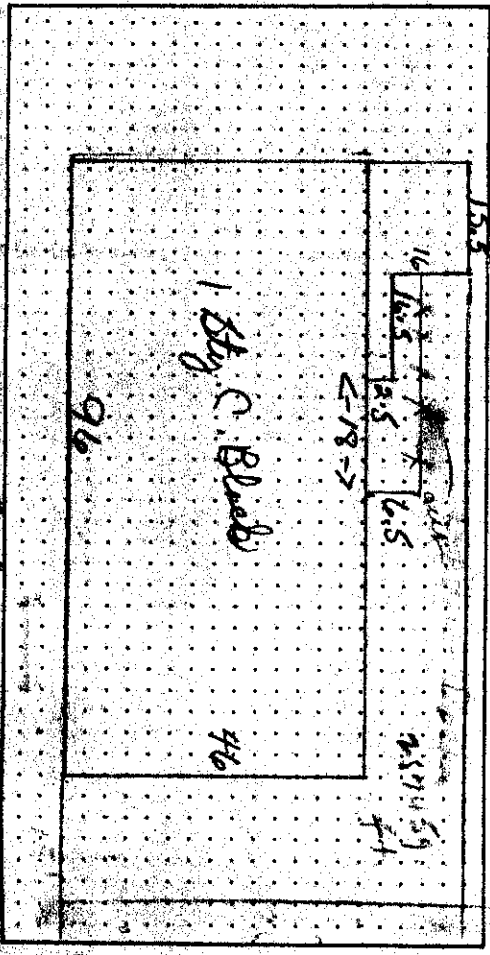
LAND DESCRIPTION AND VALUE COMPUTATIONS

USE	Road / Street	Type	Acres	Frontage	Depth	Topo	Water	Sewer	RATE	VALUE
Lot	<u>221</u>	<u>P</u>		<u>130</u>	<u>150</u>		<u>1</u>	<u>1</u>	<u>100</u>	<u>13000</u>
Home Site										
Tillable										
Pasture										
Timber										
Cut Over										
Mountain										

General Remarks: 220' Wide Plat Sub 225 LAND VALUE TOTAL 13000

150' x 150'

EXTERIOR BUILDING SKETCH



MOBILE HOME INFORMATION

Owner _____ Make _____ Year _____

Cond. _____

Market Value All Improvements 29000

Market Value All Land 13000

TOTAL MARKET VALUE 42000

No. 10-21

NAME _____ District _____
 ADDRESS _____
 DESCRIPTION **B** Map No. **81-1FA-65**

MAIN BUILDING		CONSTRUCTION		EXTERIOR FINISH		INTERIOR FINISH		ROOFING		GENERAL FEATURES		PLUMBING & HEATING	
Dwelling	<input checked="" type="checkbox"/>	Wood Frame	<input checked="" type="checkbox"/>	Wood Siding		Plaster		Comp. Sh.	<input checked="" type="checkbox"/>	Year Built	19	44	% Bath
		Cin. Block	<input checked="" type="checkbox"/>	Brick		Sheet Rock	<input checked="" type="checkbox"/>	Slate		No. Rooms	5	5	Total No. Plumbing Fixtures [Y]
		Steel Frame		Asb. Wood Siding		Calced		Asbestos		No. Bedrooms	3	3	Basement <input type="checkbox"/> % <input type="checkbox"/> Full <input type="checkbox"/>
COMPUTATIONS				Cin. Block		Panel		Metal		No. Stories	1 1/2	1 1/2	BASE FIN % <input type="checkbox"/> % <input type="checkbox"/> Full <input type="checkbox"/>
UNIT S.F.	VALUE			Stucco	<input checked="" type="checkbox"/>	Tile		Tar & Grav.		Foundation	5	5	FIREPLACES <input type="checkbox"/> Chimneys
656	11335			Aluminum				ATTIC FINISH		Floors	wood & tile	5	Cent. Heat
66	200	X	-			Sq. Ft. @	-	Disappearing Stairs		Notes:			Cent. A/C [] Modern Kitchen <input type="checkbox"/>
25	100	X	-			Sq. Ft. @	-	Attic Floor & Stairs					Stoves [] Modern Bath <input type="checkbox"/>
		X	-			Sq. Ft. @	-	% <input type="checkbox"/> % <input type="checkbox"/> Full <input type="checkbox"/>					Storm Doors <input type="checkbox"/> Storm Windows <input type="checkbox"/>

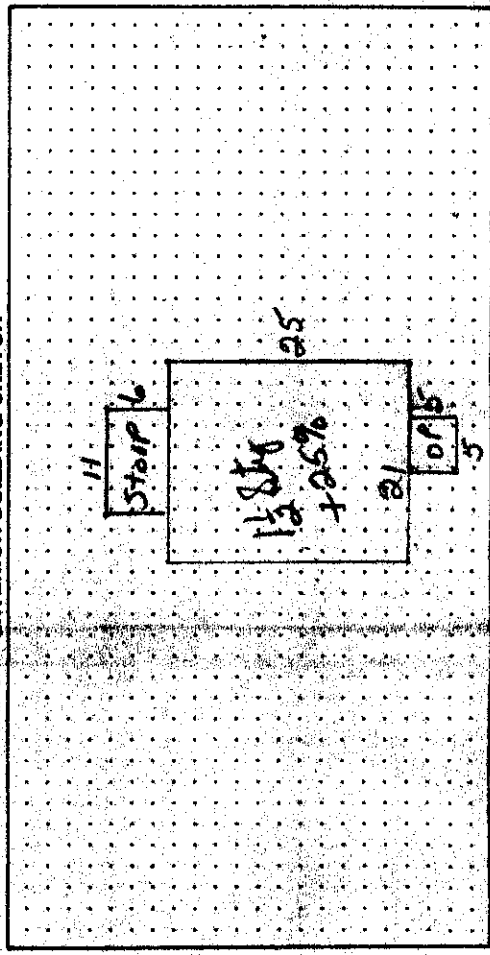
SUMMARY OF BUILDINGS

Use	Type	Grade	Age	Remod.	Comd.	Replacement Value	Phys. Deprec.	Funct. Obsol.	Econ. Obsol.	Market Value			
Dwelling Commercial Building	1 1/2 story Stucco	D	32			8869	30%			6200			
Other Bldgs.	1.												
M & L	2.												
DATE	3.												
APPR. C.F.E.	4.												
DATE 1-21-48	Not Home												
Factor	CLASSIFICATION	2											
Repl. Value	8869												
MOBILE HOME INFORMATION		Market Value All Improvements		6200		Market Value All Land		3000		TOTAL MARKET VALUE		9200	
Owner	Make	Year	Cond.										

LAND DESCRIPTION AND VALUE COMPUTATIONS

USE	Road / Street	Type	Acres	Frontage	Depth	Topo	Water	Sewer	RATE	VALUE	
Lot											
Home Site	Access		50	150					8	3000	
Tillable											
Pasture											
Timber											
Cut Over											
Mountain											
General Remarks:										LAND VALUE TOTAL	3000

EXTERIOR BUILDING SKETCH



CONDITIONS OF RELEASE AND RECOGNIZANCE

VA CODE ANN § 19.2-123.192-258

The Accused promises to appear before the

CITY OR COUNTY

- General District Court (Criminal Division Traffic Division)
- Juvenile and Domestic Relations District Court Circuit Court

THIRD STREET PULASKI VA

DECEMBER 8 1980 9:30 AM

(STREET ADDRESS OF COURT)

MURDER

DATE AND TIME

to answer the following charge(s) against the accused,

(continued on back)

The Accused further promises to appear for the offenses for which he may be charged at all times and places and before any court or judge to which this case may be rescheduled, continued, transferred, certified or appealed. The Accused promises not to depart the Commonwealth of Virginia without leave of such court or judge, to the peace and be of good behavior until final disposition of this case.

- OTHER CONDITIONS ON REVERSE SIDE

I, the Accused, hereby promise to fulfill faithfully the conditions given above

(Accused)

WARNING: Failure to fulfill the terms conditions above or any violation thereof may result in your arrest and forfeiture of the bond on the lower portion of this page (if applicable). Failure to appear may result in your being tried and convicted in your absence. Failure to appear is a separate offense. If bonded to appear in circuit court on a misdemeanor charge, failure to appear constitutes waiver of trial by jury.

The accused is released into the custody of the person/organization named below, on the condition that said custodian make all reasonable effort to ensure that the accused fulfill the conditions given above, and that any violation by or disappearance of the accused be promptly reported to the court.

Name of Custodian _____ Address _____ Signature of Custodian _____

P.D. The Accused, and Surety(ies) (if any), each hereby acknowledges himself, his heirs and assigns indebted to the Commonwealth of Virginia for City or Locality named above in the sum of \$ 9,000.00

SECURED by: CASH DEPOSIT SURETY BOND REAL PROPERTY located at: UNSECURED

EAST MAIN STREET FLOYD VIRGINIA WILLIS LOT LOT 2

(and if secured by real property, the undersigned, having demonstrated to the officer taking this bond the nature of their interest in the property, also make oath that the equity of the undersigned in the property equals or exceeds the amount of this bond). The undersigned each waives all benefit of homestead exemptions as to this debt and further covenants jointly and severally that none of them shall permit or cause title to or possession of the property pledged to secure this bond to be transferred in any manner to any degree or encumbered to the extent of this obligation. The above terms of the conditions of Release and Recognizance are hereby incorporated by reference.

If the Accused shall faithfully fulfill the conditions of release and recognizance given above, this debt is to be void; otherwise this debt is to remain in full force and effect until declared void by a Court of competent jurisdiction.

(114:9-702 7/80) *Ruth Christie* (SEAL) *Harry B Christie* (SEAL) *Stephen Epperly* (SEAL) *Stephen Epperly* (SEAL)

FORM DC-330 1/80 SURETY SURETY ACCUSED

HEARING DATE FILE NO.

DECEMBER 8 1980 9:30 AM

CONDITIONS of RELEASE RECOGNIZANCE, and BOND

STEPHEN MATTESON EPPERLY

Received and filed this the 19th day of Nov 1980

Mary Hattman Clerk

RETURNABLE TO: PULASKI

- General District Court (CRIMINAL)
- General District Court (TRAFFIC)
- Juvenile & Domestic Relations District Court
- Circuit Court

DATE RECEIVED	DATE DISBURSED/DISCHARGED
11/19/80	
BOND AMOUNT	RECEIPT NO. (IF CASH DEPOSIT)
\$ 9,000.00	

ADMITTANCE TO BAIL: The promise to fulfill the conditions of release, and the bond, if any, were subscribed and sworn to before me this day. The Accused is ordered released pursuant to the terms within.

Burd Moore CLERK MAGISTRATE JUDGE

11/19/80 9:45 AM DATE AND TIME

SURETY: Name(s), Address(es), and if corporate surety, name(s) of authorized agent(s).

HARRY B CHRISTIE

RUTH CHRISTIE

1808 W MAIN STREET PRINCETON W VA

CONDITIONS OF RELEASE AND RECOGNIZANCE

VA CODE ANN §19.2-121, 19.2-258

The Accused promises to appear before the

- General District Court (Criminal Division Traffic Division)
- Juvenile and Domestic Relations District Court Circuit Court

THIRD STREET PULASKI VA

DECEMBER 8 1980 9:30 AM (STREET ADDRESS OF COURT)

MURDER

DATE AND TIME

to answer the following charge(s) against the accused.

() continued on back

The Accused further promises to appear to answer for the offenses for which he may be charged at all times and places and before any court or judge to which this case may be rescheduled, continued, transferred, certified or appealed. The Accused promises not to depart the Commonwealth of Virginia without leave of such court or judge, to the peace and be of good behavior until final disposition of this case.

OTHER CONDITIONS ON REVERSE SIDE

I, the Accused, hereby promise to fulfill faithfully the conditions given above

(Accused)

WARNING: Failure to fulfill the terms conditions above or any violation thereof may result in your arrest and forfeiture of the bond on the lower portion of this page (if applicable). Failure to appear may result in your being tried and convicted in your absence. Failure to appear is a separate offense. If bonded to appear in circuit court on a misdemeanor charge, failure to appear constitutes waiver of trial by jury.

The accused is released into the custody of the person/organization named below, on the condition that said custodian make all reasonable effort to ensure that the accused fulfill the conditions given above, and that any violation by or disappearance of the accused be promptly reported to the court.

Name of Custodian _____ Address _____ Signature of Custodian _____

B The Accused, and Surety(ies) (if any), each hereby acknowledges himself, his heirs and assigns indebted to the Commonwealth of Virginia for City or Locality named above in the sum of \$ 9,000.00

SECURED by: CASH DEPOSIT SURETY BOND REAL PROPERTY located at: UNSECURED

EAST MAIN STREET FLOYD VIRGINIA WILLIS LOT LOT 2

(and if secured by real property, the undersigned, having demonstrated to the officer taking this bond the nature of their interest in the property, also make oath that the equity of the undersigned in the property equals or exceeds the amount of this bond). The undersigned each waives all benefit of homestead exemptions as to this debt and further covenants jointly and severally that none of them shall permit or cause title to or possession of the property pledged to secure this bond to be transferred in any manner to any degree or encumbered by the extent of this obligation. The above terms of the conditions of Release and Recognition are hereby incorporated by reference.

If the Accused shall faithfully fulfill the conditions of release and recognition given above, this debt is to be void; otherwise this debt is to remain in full force and effect until declared void by a Court of competent jurisdiction.

(114-9-702.7/80) *Anna Christie* (SEAL) *Harry B Christie* (SEAL) *Stephen M Epperly* (SEAL)

FORM DC-330 1/80 SURETY SURETY ACCUSED

HEARING DATE FILE NO.

DECEMBER 8 1980 9:30 AM

CONDITIONS of RELEASE RECOGNIZANCE, and BOND

STEPHEN MATTESSON EPPERLY

ACCUSED

RETURNABLE TO: _____ Tel. No. _____

- General District Court (CRIMINAL)
- General District Court (TRAFFIC)
- Juvenile & Domestic Relations District Court
- Circuit Court

DATE RECEIVED	DATE DISBURSED/DISCHARGED
11/19/80	
BOND AMOUNT	RECEIPT NO. (IF CASH DEPOSIT)
\$ 9,000.00	

ADMITTANCE TO BAIL: The promise to fulfill the conditions of release, and the bond, if any, were subscribed and sworn to before me this day. The Accused is ordered released pursuant to the terms within.

Benny Moore

- CLERK
- MAGISTRATE
- JUDGE

11/19/80 9:45 AM DATE AND TIME

SURETY: Name(s), Address(es), and if corporate surety, name(s) of authorized agent(s).

HARRY B CHRISTIE

RUTH CHRISTIE

1808 W. MAIN STREET BRINCFETON W. VA

OFFICE OF THE COMMONWEALTH ATTORNEY
PULASKI COUNTY, VIRGINIA

45 3RD STREET, N.W.
PULASKI, VIRGINIA 24301

TELEPHONE
(703) 980-0546

EVERETT P. SHOCKLEY
COMMONWEALTH ATTORNEY

FRANCIS C. TERWILLIGER
ASSISTANT COMMONWEALTH ATTORNEY

November 19, 1980

C
Mr. R. Glennwood Lookabill
Mr. R. David Warburton
Attorneys at Law
P. O. Box 1506
Pulaski, Virginia 24301

Received and filed, this the 20
day of Nov., 1980
Benny J. Atkinson Clerk

O
Re: Commonwealth v. Stephen Matteson Epperly

Dear Woody and Dave:

P
Y
As you know, we will have two expert witnesses testifying in the above case who will come from out of state. Mr. Preston will come from Pennsylvania and Mrs. Hamby will come from Illinois. Subpoenas have been mailed to these witnesses and they have acknowledged that there should be no difficulty with their appearances during the week of December 8th. I would prefer not to have to prepare the necessary petitions to have them properly subpoenaed under the Uniform Act under which out of state witnesses can be subpoenaed. I am as desirous of having this case heard on December 8th as are you but if for some unforeseen reason these witnesses tell me at the last minute that they are unable to appear, I would not want my case jeopardized because I had not followed the procedures under the Uniform Act.

If you would have no objections, I would appreciate your writing to confirm this and stating that should for some reason they not appear you would not demand that I proceed without their testimony because they were not properly subpoenaed.

Please respond to this request as soon as possible. Thank you for your cooperation in this matter.

Sincerely yours,


Everett P. Shockley

bat

cc/The Honorable R. William Arthur, Judge

65

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

FELONY NO. 80.203

STEPHEN MATTESON EPPERLY

O R D E R

This case came again on the 17th day of November, 1980, to be heard upon certain motions filed by the attorney for the Commonwealth and by the attorneys for the defendant and upon the joint motion of counsel, it is ORDERED that this hearing be conducted in camera.

It is ORDERED that all of the evidence and other incidents of trial be recorded verbatim on electronic equipment operated by Elinor E. Williams, Court Reporter, who was sworn so to do.

Thereupon, the Attorney for the Commonwealth moved the Court to vacate the bond which has been posted by the defendant on the ground that the value of the real estate pledged by the surety is inadequate, and the Court having heard evidence and argument on the motion, doth grant the same. It is, therefore, ORDERED that the defendant be remanded to jail until such time as he can post a bond with adequate surety as directed by a prior order of the Court.

Thereupon the defendant, by counsel, filed his motion in limine to suppress the introduction of evidence intended to be proffered by the Commonwealth in connection with actions taken by a tracking dog or dogs and this motion having been argued and considered by the Court, is denied.

Thereupon the defendant, by counsel, filed its motion in limine to suppress evidence of the results of a certain polygraph test, in support of which motion evidence was taken and


exhibits were received, and said motion was argued by counsel. The Court took this motion under advisement and after due deliberation is of the opinion that the same should be, and it is hereby, granted.

Thereupon, the defendant moved the Court for a change of venue, which motion is taken under advisement pending an effort by the Court to impanel a jury free from exception on the 8th day of December, 1980.

Thereupon, the accused was arraigned and after private consultation with his attorneys, pleaded not guilty to the indictment, which plea was tendered by the accused in person, who requested trial by jury.

And the defendant is remanded to jail.

Enter this order this ²⁴ day
of November, 1980.



Judge

Entered nunc pro tunc

OFFICE OF THE COMMONWEALTH ATTORNEY
PULASKI COUNTY, VIRGINIA
45 3RD STREET, N.W.
PULASKI, VIRGINIA 24301

TELEPHONE
(703) 980-0546

EVERETT P. SHOCKLEY
COMMONWEALTH ATTORNEY

FRANCIS C. TERWILLIGER
ASSISTANT COMMONWEALTH ATTORNEY

November 26, 1980

C
Mr. R. David Warburton
Mr. R. Glennwood Lookabill
Attorneys at Law
P. O. Box 1506
Pulaski, Virginia 24301

O Re: Commonwealth v. Stephen Matteson Epperly

Dear Dave and Woody:

Please find enclosed a copy of a laboratory report dated November 12, 1980, which was recently submitted to me.

P Should you have any questions about this matter, please do not hesitate to contact me.

Sincerely yours,

Everett P. Shockley
Everett P. Shockley

Y bat

Enclosure

cc ✓ Mr. Gerry J. Atkinson, Clerk

Pulaski

RECORDED BY: [unclear] 26 74
day of November, 1980
Stephan Matteson Clerk
Pulaski

68



Commonwealth of Virginia
 Department of General Services
 Division of Consolidated Laboratory Services
BUREAU OF FORENSIC SCIENCE

November 12, 1980

CERTIFICATE OF ANALYSIS

Central Laboratory
 P. O. Box 999
 Richmond, Virginia 23208
 Tel. No. (804) 786-4707

TO: **Special Agent W.B. Wilmore, Jr.**
Department of State Police
Box 537
Wytheville, VA 24382

Your Case # **80-4-3194**

FS Lab # **80-0396**
80N-0035
80N-1345

Victim(s): **HALL, Gina Renee**

Examiner: **Robin D. Porter**

Suspect(s): **EPPERLY, Stephen Matteson**

Date Received **July 1, 7, 11,**
14 & 21, 1980

Evidence Submitted By: **Trooper C.A. Hall (July 1, 7 & 11, 1980)**
Captain G.S. Williams (July 14, 1980)
Special Agent W.B. Wilmore, Jr. (July 21, 1980)

Submitted on July 1, 1980

Item 1. Carpet from trunk of vehicle driven by victim

Submitted on July 7, 1980

Item 31. One (1) refrigerator door

Submitted on July 11, 1980

Item 39. One (1) blue towel

Submitted on July 14, 1980

Received and filed, this the 26
 day of Nov., 1980
Derry J. Atkinson

Item 50. A piece of carpet from Davis cabin

IN FUTURE CORRESPONDENCE REFERENCE THIS MATTER PLEASE REFER TO THE FS LAB # ABOVE

69

Submitted on July 21, 1980

- Item 60. One (1) pair of panties
- Item 61. One (1) purple bodysuit
- Item 62. One (1) pair of white trousers
- Item 63. One (1) white jacket
- Item 64. One (1) blue and white towel

RESULTS OF EXAMINATION:

Nylon fibers from Items 1, 39 and 60-64 were found to be similar in color, microscopic properties and composition to the nylon fibers comprising the carpet in Item 50. These fibers could have originated from the carpet.

Item 31 also contained a few similar fibers, but these were too limited for adequate testing. No other significant fibers were found in these items.

The evidence is being returned to the Western Virginia Regional Laboratory.

cc: Western Regional Laboratory, Trooper C.A. Hall, & Captain G.S. Williams
RDP/ceb

STATE OF VIRGINIA
CITY/COUNTY OF Richmond to wit:

THIS day personally appeared before me, Catherine E. Bersik, a notary public, in and for said city/county in the Commonwealth of Virginia, Robin D. Porter, who signed the foregoing Certificate of Analysis, before me, and after being duly sworn, made oath (1) that he performed the analysis and/or examination the results of which are herein contained, (2) that said analysis and/or examination was performed in a laboratory operated by the Division of Consolidated Laboratory Services of the Commonwealth or authorized by such Division to conduct such analysis and/or examination and (3) that this Certificate of Analysis is true and correct.

Given under my hand this _____ day of _____, 19____.

Notary Public

My commission expires February 12, 1983.

Page 2 Of 2

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OFFICE OF THE COMMONWEALTH ATTORNEY
PULASKI COUNTY, VIRGINIA

45 3RD STREET, N.W.
PULASKI, VIRGINIA 24301

TELEPHONE
(703) 980-0546

EVERETT P. SHOCKLEY
COMMONWEALTH ATTORNEY

FRANCIS C. TERWILLIGER
ASSISTANT COMMONWEALTH ATTORNEY

December 1, 1980

Mr. R. Glennwood Lookabill
Mr. R. David Warburton
Attorneys at Law
P. O. Box 1506
Pulaski, Virginia 24301

Re: Commonwealth v. Stephen Matteson Epperly

Dear Woody and Dave:

I have given you medical records from the University of Virginia Hospital showing that Gina Hall's blood is type O. You have indicated to me that you would stipulate these records into evidence so that the custodian of the medical records will not have to attend trial from Charlottesville. I have telephoned the custodian, Jeanette Wilkins, and informed her of this development and told her that she would not have to attend the trial. As I also mentioned on the telephone, we plan to exhibit a survey prepared by Lloyd Mathews and some aerial photographs of the Hazel Hollow Road area. While the survey is to be enlarged in Roanoke the week of December 1st, I would imagine that Lloyd would have a copy to show you should you so desire. The aerial photographs are in the custody of Special Agent Wilmore in Wytheville and by copy of this letter I am advising him to please allow you to look at the photographs should you wish to do so.

Thank you for your cooperation with respect to Miss Hall's medical records.

Sincerely yours,


Everett P. Shockley

bat

cc ✓ Mr. Gerry J. Atkinson, Clerk
Special Agent Wilmore

Received and filed, this the 1st
day of Dec 1980
Gerry J. Atkinson Clerk
Pulaski

71

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Frank Shearwood - c/o Virginia State Police, Wytheville

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 19 80, of the said Court, at 9:15 o'clock, A.M., on the 9th day of December 19 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, ~~Everett P.~~ Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 1st day of December, 19 80, in the 204th year of the Commonwealth of Virginia.

Everett P. Shockley
Attorney for the Commonwealth
Pulaski County, Virginia

72

~~DW (nocturnal)~~ DEPUTY SHERIFF

SHERIFF, COUNTY OF WYTHE, VA

G W R R

Executed on the 14 day of Dec 1980
of Wythe, Virginia, by delivering a true copy of the above
attached to each other, to Frank Stearns

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

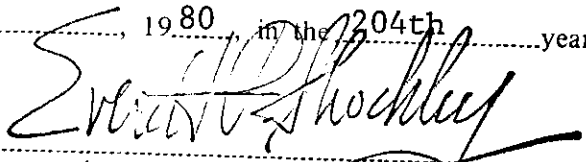
Laura Reid Cormier - c/o Radford Community Hospital, Radford

Steve Taylor - c/o Radford City Jail

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 1980, of the said Court, at 9:15 o'clock, A.M., on the 8th-12th day of December 1980 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 21st day of November, 1980, in the 204th year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

73

Executed on the 17 day of July,
1919, in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to
[Signature] in person

SHERIFF, CITY OF RADFORD, VA.

BY [Signature] DEPUTY SHERIFF

Executed on the 17 day of July,
1919, in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to
[Signature] in person

SHERIFF, CITY OF RADFORD, VA.

BY [Signature] DEPUTY SHERIFF

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon

John R. Hall - Coeburn, VA

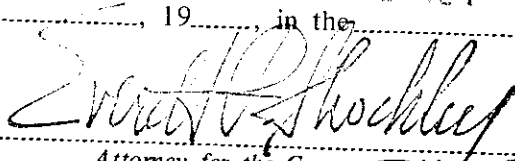
Diana Jay Hall - c/o John R. Hall, Coeburn, VA

Craig Runyon - Rt. 1, Box 463, Coeburn, VA

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 1980, of the said Court, at 9:15 o'clock, A. M., on the 24th day of December, 1980 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Tpoerly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 21st day of November, 1980, in the 274th year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

74

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

Date 11-24-80

After Diligent Search Craig Benson
Could Not Be Found In My Jurisdiction

JAMES E. ADKINS

Sheriff of Wise County

By D. Keith Smith

Deputy Sheriff

Radford Collogg

Virginia Wise County
Executed by delivering a true copy of within Seemore
to _____
a person in Wise County this the _____ day of _____, 19____

Sheriff of _____ County, _____
By _____ Dep. Sheriff

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

John R. Hall - Coeburn, VA

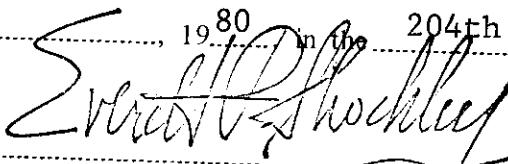
Diana Jay Hall - c/o John R. Hall, Coeburn, VA

Craig Runyon - Rt. 1, Box 463, Coeburn, VA

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 1980, of the said Court, at 9:15 o'clock, A. M., on the 8th day of December 19 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 21st day of November, 1980 in the 204th year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

75

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

Virginia Wise Co., to-wit:

executed by delivering a true copy of within James
John R. Hall, Clara Jay Hall

at present in Wise Co., Va. this the 24 day of Nov 1980

By Debit Amey Sheriff

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Debbie Stanley - c/o Harry & Hazel Stanley, Rt. 1, Box 501 CC, Coeburn

Jeff Kaiser - c/o Coeburn Cinema, Coeburn

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 1980, of the said Court, at 9:15 o'clock, A. M., on the 8th day of December 1980 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 21st day of November, 1980, in the 20th year of the Commonwealth of Virginia.

Everett P. Shockley
Attorney for the Commonwealth
Pulaski County, Virginia

76

WISCONSIN WISE CO. 10-10-11
Executed by delivering a true copy of within Sumner
Rebbie Stanley, Jeff Kiser
a person in Wise Co., Va. this the 24 day of Nov, 1980

Sheriff of Wise County, a County of Virginia, Va.
By Delbert Smith Dep. Sheriff

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

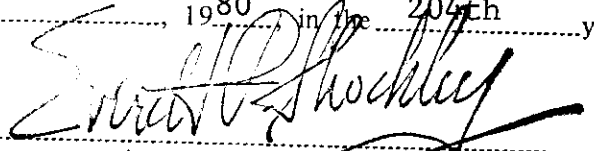
Tpr. Frank Duffy, Jr. - VSP

Spc. Agent Walt Wilmore - same

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 1980, of the said Court, at 9:15 o'clock, A. M., on the 8th day of December 1980 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 21st day of November, 1980 in the 204th year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

77

Ex. 24 No. 50
of the ...
attached to each ... to S. C. Warrick for Cray
S. C. Warrick for Cray
H. Wayne Rife
SHERIFF, COUNTY OF ... VA.
By Thomas Mulgrew DEPUTY SHERIFF

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

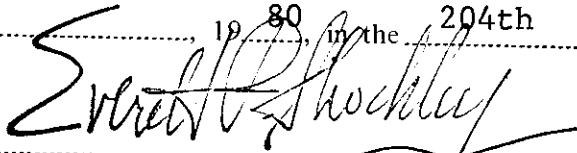
We command you to summon.....

Cupid Epperly - 905 2nd Street, Radford

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the.....November.....term, 19.80., of the said Court, at.....11:00'clock,.....A.M., on the 17th day of.....November.....19.80.... next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and.....Stephen Matteson Epperly.....Defendant(s).

And this.....you.....shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the.....14th.....day of.....November.....19 80, in the.....204th.....year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

78

Executed on the 14 day of March
1920, in the City of Radford, Virginia, by presenting a true
copy of the above mentioned papers to the undersigned, to

Cyril Eppert in person

BY P. J. James
SHERIFF, CITY OF RADFORD, VA. DEPUTY SHERIFF

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

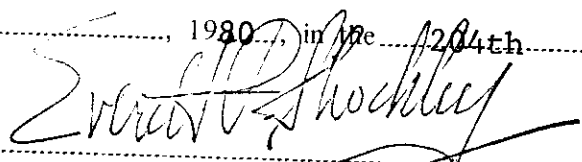
We command you to summon.....

Lloyd Mathews - Main Street, Dublin (across from Dublin Post Office)

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the.....November.....term, 1980., of the said Court, at.....9:15 o'clock, A.M., on the.....9th day of.....December.....19.....80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and.....Stephen Matteson Epperly.....Defendant(s).

And this.....you.....shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the.....1st.....day of.....December....., 1980., in the.....1204th.....year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

79

Executed this 3rd day of December 1980
by giving a true and exact copy
to the fore in named.

Signed Sheldeneed
Chap. Carlton Police

Received and filed 12/10/80
Henry S. Johnson,
Clerk

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Ron Davis - Route 1, Lakewood Estates, Radford (Pulaski Co.)

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the..... November..... term, 1980., of the said Court, at..... 9:15...o'clock,....A.M., on the...8th..... day of..... December..... 19..80.... next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and..... Stephen Matteson Epperly..... Defendant(s).

And this..... you..... shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the..... 26th..... day of..... November....., 1980., in the..... 204th..... year of the Commonwealth of Virginia.

80
.....
Attorney for the Commonwealth
Pulaski County, Virginia

...
Nov 1980
...
Notice
Rev. Dr. ...
...

Frank R. Connor

W. E. Haug

Rec'd. & filed 12/10/80
Henry ...
Clerk

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Mary Neal Simpson - 3531 Mud Lick Road, Roanoke.....

.....
.....
.....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the.....November.....term, 1980., of the said Court, at.....9:15.....o'clock, A. M., on the.....9th.....

day of.....December.....19.80.... next, to testify and the truth to speak in behalf of the Common-

wealth of Virginia in a certain matter of controversy in said Court depending between the said Common-

wealth and.....Stephen Matteson Epperly.....Defendant(s).

And this.....YOU.....shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the.....26th.....day of.....November....., 1980, in the.....204th.....year of the Commonwealth of Virginia.

Everett P. Shockley
Attorney for the Commonwealth
Pulaski County, Virginia

81

SUBSTITUTE

Enacted by the Indiana Senate on the

_____ day of _____

Walter D. Hopper

Walter D. Hopper

in the _____ of the State of Indiana

_____ of _____

by _____

Walter D. Hopper

Walter D. Hopper

Walter D. Hopper

Walter D. Hopper

Walter D. Hopper

Walter D. Hopper

Walter D. Hopper

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Walter D. Hopper

Walter D. Hopper

Walter D. Hopper

Deputy Sheriff

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

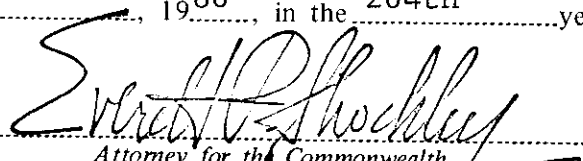
Gary Lee Thomas - c/o Radford P.D.

.....
.....
.....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the..... November term, 1980, of the said Court, at..... 9:15 o'clock,..... A.M......, on the..... 8th day of..... December 19. 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and..... Stephen Matteson Epperly Defendant(s).

And this..... YOU shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the..... 26th day of..... November, 1980, in the..... 204th year of the Commonwealth of Virginia.


Attorney for the Commonwealth
Pulaski County, Virginia

82

Executed on the _____ day of _____
19____, in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to
_____ in person

BY _____ SHERIFF, CITY OF RADFORD, VA.
_____ DEPUTY SHERIFF

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Rama Ford - c/o American Red Cross, Roanoke Valley Chapter, 352 Church Ave.
Roanoke (city)

(NOTE: Please bring medical records showing blood type
of Gina Renee Hall)

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during
the.....November.....term, 19.80., of the said Court, at...9:15...o'clock, A. M., on the...8th.....
day of.....December.....19..80... next, to testify and the truth to speak in behalf of the Common-
wealth of Virginia in a certain matter of controversy in said Court depending between the said Common-
wealth and.....Stephen Matteson Epperly.....Defendant(s).

And this.....you.....shall in nowise omit and shall not depart thence without leave
of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on
the.....24th.....day of.....November....., 19..80., in the.....204th.....year
of the Commonwealth of Virginia.

Everett P. Shockley
Attorney for the Commonwealth
Pulaski County, Virginia

83

Alvin M. ...

1934

...

PERSONAL

...

...

...

ALVIN M. ...
...

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

David Lee Matherly - 403 2nd St., Christiansburg.....

Ward Christopher Royal - 1470 Roanoke Rd., Christiansburg.....

Bill Cranwell - 406 Ingles Ct., S. W., Blacksburg.....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 1980, of the said Court, at 9:15 o'clock, A. M., on the 8th day of December 1980 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 21st day of November, 1980, in the 204th year of the Commonwealth of Virginia.

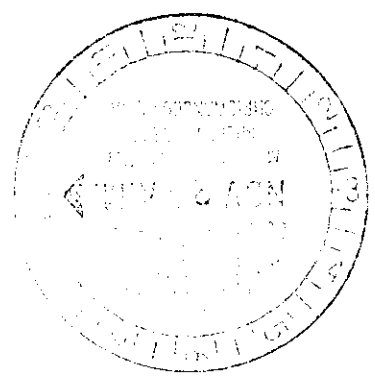
Attorney for the Commonwealth
Pulaski County, Virginia

84

Executed the within notice on the within named
named DAVID LEE MATHERLY
on 11-24-80
by Sheriff W E Prine in
person with the Sheriff of Montgomery, Va.
where he resides.

Sheriff, Montgomery County
By W E Prine
Deputy

Executed the within notice on the within named
WARD CHRISTOPHER ROYAL
on 11-24-80 in the County of
Montgomery, Va. at his usual
place of abode.
MRS SIDNEY PALMER FOREST PARENT
a mother of 5
who is wife of ...
the ...
WARD CHRISTOPHER ROYAL
and the ...
of said names.
W E Prine
Sheriff of Montgomery County Deputy



Executed the within notice on the within named
BILL CRANWELL
on 11-24-80 in the County of
Montgomery, Va. at his usual
place of abode.
MRS J E CRANWELL MOTHER
a mother of 5
the ...
BILL CRANWELL
W E Prine
Sheriff of Montgomery County Deputy

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

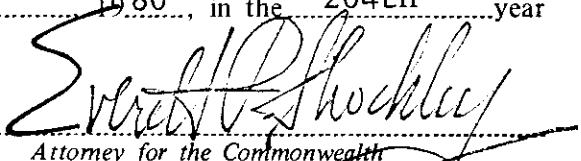
Jeanette Wilkins - Asst. Director of Medical Records, University of
Virginia Hospital, Charlottesville, VA

NOTE: Please bring medical records showing blood
type of Gina Renee Hall

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during
the November term, 1980, of the said Court, at 9:15 o'clock, A. M., on the 8th
day of December 1980 next, to testify and the truth to speak in behalf of the Common-
wealth of Virginia in a certain matter of controversy in said Court depending between the said Common-
wealth and Stephen Matteson Epperly Defendant(s).

And this YOU shall in nowise omit and shall not depart thence without leave
of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on
the 21st day of November 1980, in the 204th year
of the Commonwealth of Virginia.


Attorney for the Commonwealth
Pulaski County, Virginia

85

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

Executed in the County of Albemarle, Virginia
on the 25 day of Nov 1980

by delivering a true copy of the within _____
Summons, in writing, to
Jeanette Wilkins

_____ in person.
Fee \$ _____

J. W. BAILEY, Sheriff
County of Albemarle, Virginia
Carlton Johnson Jr. ~~Sheriff~~
Deputy Sheriff

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Ray Franklin Hepner - 1170 Radford St., Christiansburg.....

.....
.....
.....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the..... November..... term, 1980., of the said Court, at..... 9:15 o'clock, A. M., on the..... 8th..... day of..... December..... 19 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and..... Stephen Matteson Epperly..... Defendant(s).

And this..... you..... shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the..... 26th..... day of..... November....., 1980., in the..... 204th..... year of the Commonwealth of Virginia.

Attorney for the Commonwealth
Pulaski County, ~~Virginia~~

86

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Thomas B. Hardie - 1480 S. Main St., Blacksburg.....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 19 80, of the said Court, at 9:15 o'clock, A.M., on the 9th day of December 19 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 26th day of November, 19 80, in the 204th year of the Commonwealth of Virginia.

Everett P. Shockley
Attorney for the Commonwealth
Pulaski County, Virginia

87

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Dixie Briggs Bauman - High Street, Coeburn, VA (Wise County).....

.....
.....
.....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 19 80, of the said Court, at 9:15 o'clock, AM., on the 8th day of December 19 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and.....

Stephen Matteson Epperly.....Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 24th day of November, 19 80, the 04th year of the Commonwealth of Virginia.

Everett P. Shockley

Attorney for the Commonwealth
Pulaski County, Virginia

88

BY John K. Kyles
Dep. Sheriff
SHERIFF'S OFFICE, COUNTY OF FREDERICK, VA.

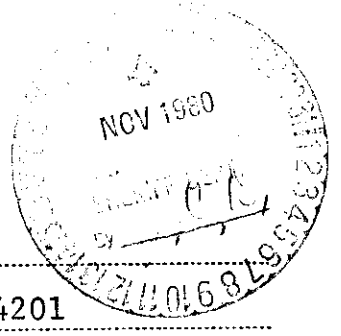
Witness my hand and seal of office this 1 day of Dec 1980

John K. Kyles
Dep. Sheriff
SHERIFF'S OFFICE, COUNTY OF FREDERICK, VA.

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:



We command you to summon.....

Dr. Jane Toothman - 101 North Street, Bristol, VA 24201

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 19 80, of the said Court, at 9:15 o'clock, A. M., on the 8th day of December 19 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 24th day of November, 1980, in the 204th year of the Commonwealth of Virginia.

Everett P. Shockley
Attorney for the Commonwealth
Pulaski County, Virginia

89

Forwarded on the 2nd of Dec. 1980
with the City of Bristol by delivery
to the City of Bristol
6 the copy of an original summons

.....
D.S. James Toothman

MARSHALL E. HONAKER, SHERIFF

.....
Sheriff, City of Bristol, Virginia

.....
K. G. Baker
Deputy Sheriff

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

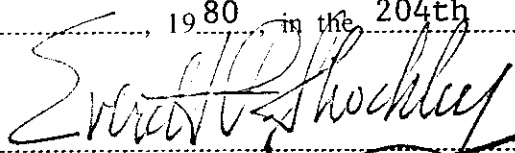
for John B. Nester - Rt. 2, Box 465, Radford (Pulaski County).....

for Jerry Eugene Ross - c/o Pulaski County Jail.....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 19 80, of the said Court, at 9:15 o'clock, A. M., on the 8th day of December 19 80 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 21st day of November, 19 80, in the 204th year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

90

Executed on the 24 day of nov 1980, in the County of
Pulaski, Virginia, by delivering a true copy of the above mentioned papers
attached to each other, to John B. Weston
Jerry Eugene Ross in person.
Frank R. Conners
Sheriff, County of Pulaski, Va.
By James F. Jolley Deputy Sheriff

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Tpr. C. A. Hall.....


Tpr. M. E. Church.....

Dep. Bill Patton.....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 1980, of the said Court, at 9:15 o'clock, A. M., on the 8th day of December 1980 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this YOU shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 21st day of November, 1980, in the 204th year of the Commonwealth of Virginia.


Attorney for the Commonwealth
Pulaski County, Virginia

91

Executed on the 24 day of Nov, 1980, in the County of
Pulaski, Virginia, by delivering a true copy of the above mentioned papers
attached to each other, to Mr C. A. Hall & M. E. Church
~~Deputy~~ Deputy Bud Patton in person.
Frank R. Connor
Sheriff, County of Pulaski, Va.
By James F. Lockel Deputy Sheriff

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

W Mrs. Ron E. Davis - Route 1, Radford (Pulaski County).....

R Rita Gayle Price - 63 Lovell Dr., Dublin.....

D Donnie Smith - Monument Rd., Dublin (works Inland Motors).....

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 1980, of the said Court, at 9:15 o'clock, A. M., on the 8th day of December 1980 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 21st day of November, 1980 in the 204th year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

92

Executed on the 24 day of Nov 1950 in the County of Pulaski, Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Miss. Lou E Davis

Frank R. Connor Sheriff

By Samuel F. Tolled Sheriff, County of Pulaski, Va.
Deputy Sheriff

Executed on the 24 day of Nov 1950 in the County of Pulaski, Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Miss. Lou E Davis and not finding her there, I left a true copy of the above mentioned papers at the front door of her residence on the 24 day of Nov 1950.

Frank R. Connor Sheriff, County of Pulaski, Va.

By Samuel F. Tolled Sheriff, County of Pulaski, Va.
Deputy Sheriff

Executed on the 24 day of Nov 1950 in the County of Pulaski, Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Miss. Lou E Davis and not finding her there, I left a true copy of the above mentioned papers at the front door of her residence on the 24 day of Nov 1950.

Frank R. Connor Sheriff, County of Pulaski, Va.

By Samuel F. Tolled Sheriff, County of Pulaski, Va.
Deputy Sheriff

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

William W. King - 524 Clements St., Radford

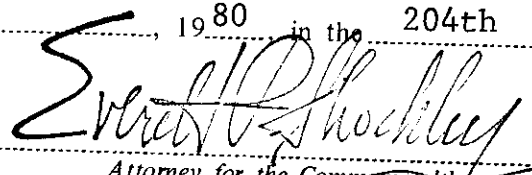
Robert M. Lent - 703 1/2 Fairfax St., Radford

Mrs. Esther Epperly - 905 2nd Street, Radford

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the.....November.....term, 19.80., of the said Court, at...9:15.....o'clock, A. M., on the...8th.....day of.....December.....19.....80. next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and.....Stephen Matteson Epperly.....Defendant(s).

And this.....you.....shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the.....21st.....day of.....November....., 1980 in the.....204th.....year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

93

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

Executed on the 24 day of Nov., 1930,
in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to
William W. King
Colonel J. Radford Va. in person
B. F. Farmer
SHERIFF, CITY OF RADFORD, VA.
BY A. J. Brown DEPUTY SHERIFF

Executed on the 24 day of Nov., 1930,
in the City of Radford, Virginia by calling at the usual place of
abode Robert M. Lent
of Radford Va.
and not finding him there, or any other person upon whom
service could be made, I left a true copy of the above mentioned
papers attached to each other, posted at the front door of
his usual place of abode.

B. F. Farmer
SHERIFF, CITY OF RADFORD, VIRGINIA
BY A. J. Brown DEPUTY SHERIFF

Executed on the 24 day of Nov., 1930,
in the City of Radford, Virginia by calling at the usual place of
abode Mr. Esther Eppley
of Radford Va.
and not finding her there, or any other person upon whom
service could be made, I left a true copy of the above mentioned
papers attached to each other, posted at the front door of
her usual place of abode.

B. F. Farmer
SHERIFF, CITY OF RADFORD, VIRGINIA
BY A. J. Brown DEPUTY SHERIFF

Commonwealth witnesses must claim their attendance at the term to which they are summoned.

The Commonwealth of Virginia

TO THE SHERIFF OF PULASKI COUNTY—GREETINGS:

We command you to summon.....

Capt. G. S. Williams - c/o Radford P.D.

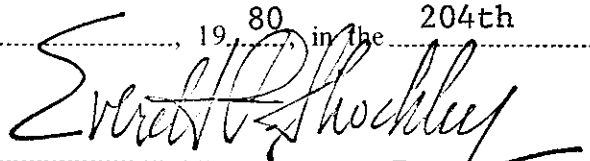
Cpl. J. L. Roop - same

Thomas Noah Lavelle - Radford Sheriff's Dept.

to appear before the Judge of our Circuit Court of Pulaski County at the courthouse thereof during the November term, 1980, of the said Court, at 9:15 o'clock, A.M., on the 8th day of December 1980 next, to testify and the truth to speak in behalf of the Commonwealth of Virginia in a certain matter of controversy in said Court depending between the said Commonwealth and Stephen Matteson Epperly Defendant(s).

And this you shall in nowise omit and shall not depart thence without leave of said Court, both under penalty of the law.

Witness, Everett P. Shockley, Attorney for the Commonwealth for said County, at the courthouse, on the 21st day of November, 1980, in the 204th year of the Commonwealth of Virginia.



Attorney for the Commonwealth
Pulaski County, Virginia

94

Executed on the _____ day of _____,
19____, in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to
_____ in person

SHERIFF, CITY OF RADFORD, VA.

BY _____ DEPUTY SHERIFF

Executed on the _____ day of _____,
19____, in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to

_____ in person

SHERIFF, CITY OF RADFORD, VA.

BY _____ DEPUTY SHERIFF

Executed on the _____ day of _____,
19____, in the City of Radford, Virginia, by delivering a true
copy of the above mentioned papers attached to each other, to

_____ in person

SHERIFF, CITY OF RADFORD, VA.

BY _____ DEPUTY SHERIFF

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

FELONY NO. 80.203

STEPHEN MATTESON EPPERLY

O R D E R

This day came the Attorney for the Commonwealth, and Stephen Matteson Epperly, who stands indicted for a felony, to-wit, murder, appeared according to the condition of his recognizance, and came also R. Glennwood Lookabill, Esq. and R. David Warburton, Esq., his attorneys heretofore appointed.

It is ORDERED that all of the evidence and other incidents of trial be recorded verbatim on electronic equipment operated by Elinor E. Williams, Court Reporter, who was sworn so to do.

Thereupon the accused, who had been previously arraigned, requested trial by jury.

Thereupon the defendant, by counsel, moved the Court to sequester the jurors, /which motion was overruled and exception was noted.

Thereupon the Court commenced impanelling the jury, and the hour of adjournment having arrived, the further hearing of this case is continued until December 9, 1980, at 9:30 a.m., with the concurrence of the Attorney for the Commonwealth, the defendant in person and the defendant's counsel.

Enter this order this 8th day
of December, 1980.


Judge

Entered nunc pro tunc

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

FELONY NO. 80.203

STEPHEN MATTESON EPPERLY

O R D E R

This day came again the Attorney for the Commonwealth and Stephen Matteson Epperly, in person and by R. Glennwood Lookabill, Esq. and R. David Warburton, Esq., his attorneys.


It is ORDERED that all of the evidence and other incidents of trial be recorded verbatim on electronic equipment operated by Elinor E. Williams, Court Reporter, who was sworn so to do.

Thereupon the Court continued impanelling the jury, and it now appearing to the Court that a jury panel and an alternate jury panel have been selected, free from exception, it is ADJUDGED and ORDERED that the motion of the defendant heretofore made for a change of venue be denied, to which ruling exception was duly noted.

Thereupon the Attorney for the Commonwealth and the attorneys for the defendant exercised their rights to strike names from the panel, as provided by law, and the remaining twelve (12) jurors and two (2) alternates, constituting the jury for the trial of the defendant, were duly sworn.

And the hour of adjournment having arrived, the further hearing of this case is continued until December 10, 1980, at 9:30 a.m., with the concurrence of the Attorney for the Commonwealth, the defendant in person and the defendant's counsel.

Enter this order this 9th day
of December, 1980.


Judge

Entered nunc pro tunc

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

FELONY NO. 80.203

STEPHEN MATTESON EPPERLY

O R D E R

This day came again the Attorney for the Commonwealth and Stephen Matteson Epperly, in person and by R. Glennwood Lookabill, Esq., and R. David Warburton, Esq., his attorneys, and came also the jury heretofore sworn to try the case.

It is ORDERED that all of the evidence and other incidents of trial be recorded verbatim on electronic equipment operated by Elinor E. Williams, Court Reporter, who was sworn so to do.


Thereupon the Court and jury heard the opening statements of the Commonwealth and the defendant.

Thereupon, on motion of the Commonwealth by its attorney, unopposed by the defendant, it is ORDERED that a view be taken of certain places and things that it is alleged will be referred to in the evidence; and thereupon the jury and later dates, the defendant and his counsel, the attorneys for the Commonwealth and the Court proceeded in the company of the Sheriff and his deputies to take such view.

At the view of the residence of Mr. and Mrs. Ronald Davis the defendant, by counsel, called to the Court's attention the fact that a Commonwealth witness, William Whitman King, Jr., was on the premises. Thereupon the Court instructed Mr. King to leave the premises and not to return until the jury had completed its view at that location, said order having been given by the Court even though Mr. King resided at that place.

Upon returning to the Courtroom after the completion of the view, the Commonwealth commenced presenting its evidence and the hour of adjournment having arrived, the further hearing of this case is continued until December 11, 1980, at 9:30 a.m., with the concurrence of the Attorney for the Commonwealth, the defendant in person and the defendant's counsel.

Enter this order this 10th day
of December, 1980.



Judge

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

FELONY NO. 80.203

STEPHEN MATTESON EPPERLY

O R D E R


This day came again the Attorney for the Commonwealth and Stepehn Matteson Epperly, in person and by R. Glennwood Lookabill, Esq. and R. David Warburton, Esq., his attorneys, and came also the jury heretofore sworn to try the case.

It is ORDERED that all of the evidence and other incidents of trial be recorded verbatim on electronic equipment operated by Elinor E. Williams, Court Reporter, who was sworn so to do.

Thereupon the defendant, by counsel, moved the Court to declare a mistrial on the ground that on the preceding day a witness for the Commonwealth, William Whitman King, Jr., had been present at the residence of his mother and stepfather, Mr. and Mrs. Ronald Davis, which motion was denied and exception preserved.

Thereupon the Commonwealth presented a further portion of its evidence and the hour of adjournment having arrived, the further hearing of this case is continued until December 12, 1980, at 9:30 a.m., with the concurrence of the Attorney for the Commonwealth, the defendant in person and the defendant's counsel.

Enter this order this 11th day of
December, 1980.


Judge

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

FELONY NO. 80.203

STEPHEN MATTESON EPPERLY

O R D E R

This day came again the Attorney for the Commonwealth and Stephen Matteson Epperly, in person and by R. Glennwood Lookabill, Esq. and R. David Warburton, Esq., his attorneys, and came also the jury heretofore sworn to try the case

It is ORDERED that all of the evidence and other incidents of trial be recorded verbatim on electronic equipment operated by Elinor E. Williams, Court Reporter, who was sworn so to do.


Thereupon the Commonwealth continued the presentation of its evidence.

Thereupon the defendant, by counsel, moved the Court to declare a mistrial on the ground that the witness, Gerald Williams, had used the word "polygraph" in his testimony. It appearing to the Court the question which elicited the answer objected to was propounded by defense counsel and that the answer was casual and not specifically directed toward the defendant and the Court being of opinion that no harm was done, said motion is denied, to which ruling the defendant, by counsel, excepted.

Thereupon the Commonwealth announced that its next witness would be John M. Preston and the defendant, by counsel, announced its objection to the testimony of said witness and moved that it be suppressed. Thereupon the evidence of said witness was heard in the absence of the jury and after argument on the point, the Court denied the motion to suppress, to which ruling the defendant, by counsel, excepted.

Thereupon the Commonwealth continued with a portion of its evidence, and the hour of adjournment having arrived, the further hearing of this case is continued until December 15, 1980, at 9:30 a.m., with the concurrence of the Attorney for the Commonwealth, the defendant in person and the defendant's counsel.

Enter this order this 12th day
of December, 1980.



Judge

905 Second Street
Radford, Virginia 24141
December 14, 1980

*Filed
12/15/80
[Signature]*

The Honorable R. William Arthur
Twenty Seventh Circuit Court
Pulaski, Virginia 24301

Dear Sir:

I would strongly request that the case of *The Commonwealth of Virginia versus Stephen M. Epperly* be terminated immediately. The following reasons will support and well qualify my request. My attorneys Mr. R. G. Lookabill and Mr. R. D. Warburton have not followed my request and desires in this proceeding. They are and have been totally unprepared for a case of this magnitude. The following examples, cases in point, and methods used by my attorneys will prove my claim.

Since my first meeting on September 10, 1980 until the present time my many, many request for dog experts, blood experts have been ignored and refused by my attorneys. As to the best of my knowledge the first time my attorneys contacted a dog expert was after I gave them a telephone in Kansas, and also pleaded with them to contact a Bland correction dog handler. After the contact was made these people were not subpoenaed even though the information could have been very helpful. The only contact was made by phone and it was done after the trial had commenced. It is my opinion that this is an example of gross neglect regarding my defense.

My request for records, lab reports, interviews regarding this particular case have been denied me since my release from Pulaski County jail on November 7, 1980. They were not turned over until I demanded them from both attorneys on December 3, 1980, less than a week before the trial was to begin.

Mr. Warburton felt that speaking with potential witnesses was inappropriate. The process of pursuing potential witnesses who had knowledge of the case became my job, because my attorneys seemed confused as to what channel they should follow. Contacts with William W. King, Nick Hrones, Charles Housel, Jan Fisher and Jimmy Curtis turned out to be the only persons interviewed, to the best of my knowledge. My attorneys were aware of the names of these persons from the onset of their appointment to my case. They related initially, that the interviews would be no problem. William W. King was not interviewed until November 6, 1980, this was by my requesting him to see my attorneys. Jan Fisher and Jimmy Curtis were not interviewed until December 1, 1980, one week before the trial was to start. This again, was at my request, having Jan Fisher to contact my attorneys. Nick Hrones and Charles Housel were not interviewed until December 2, 1980, this was also after I had contacted both

of them. This process of myself pursuing potential witnesses is very unfitting but someone had to get the job done. It is my feeling that these attorneys should have made these contacts earlier and on their own.

When my attorneys were first ask about viewing the house on the lake, early in September, they replied that there would be no problem in viewing it inside and outside. They did not see this house until December 1 1980, one week before the trial, and then only on the outside. Upon my insistence to contact the owners of the house for a view of the inside, my attorneys were turned down. The attorneys and I went back on December 5, 1980 for a view but we did not go on the property. I had begged many times for them to go over to the lake house but they did not think it was pertinent to the case. The first time they saw the inside of the house on the lake, was on December 10, 1980, the same time that the jury in my case saw it. It is of my opinion that this is gross negligence.

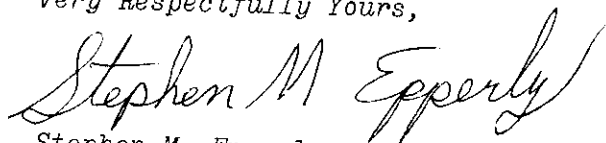
Even though I had pleaded for rainfall data during the period of time that is relevant in the case, this information was not secured until after the trial had commenced. I asked for a record of radio, television and newspaper accounts to be accumulated for the purpose of a change of venue; to the best of my knowledge these accounts were never collected.

I ask that my jury be sequestered due to the extensive publicity that this case has received. To the best of my knowledge a formal motion was never made.

I have urged that witnesses, both expert and laymen be subpoenaed for my defense, this too, has been ignored.

My attorneys have not prepared a defense for me and we are not ready for this trial. I pray that my request will be granted. It is my opinion that with the present state of my attorneys that a fair and just trial is inconceivable.

Very Respectfully Yours,


Stephen M. Epperly

cc: Clerk of Pulaski County Court
Mr. R. G. Lookabill and R. D. Warburton

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

FELONY NO. 80.203

STEPHEN MATTESON EPPERLY

O R D E R

This day came again the Attorney for the Commonwealth and Stephen Matteson Epperly, in person and by R. Glennwood Lookabill, Esq. and R. David Warburton, Esq., his attorneys, and came also the jury heretofore sworn to try the case.

It is ORDERED that all of the evidence and other incidents of trial be recorded verbatim on electronic equipment operated by Elinor E. Williams, Court Reporter, who was sworn so to do.

Thereupon the Commonwealth continued the presentation of its evidence.


Thereupon the Attorney for the Commonwealth offered Patricia Hamby as an expert on blood splattering, to whose qualifications the defendant, by counsel, objected. Mrs. Hamby's evidence was proffered in camera, at the conclusion of which the objection of the defendant was sustained and it is ORDERED that the evidence of Mrs. Hamby be suppressed, to which ruling the Attorney for the Commonwealth excepted.

Thereupon the defendant personally presented to the Court a letter setting out certain alleged deficiencies in the representation of the defendant by the court-appointed counsel and the defendant personally moved the Court for a mistrial, which motion was denied and exception was preserved.

Thereupon the Commonwealth continued the presentation of its evidence, and the hour of adjournment having arrived, the

further hearing of this case is continued until December 16,
1980, at 9:30 a.m., with the concurrence of the Attorney for the
Commonwealth, the defendant in person and the defendant's counsel.

Enter this order this 15th day
of December, 1980.


Judge

Comm. c. Eppley
12/10/80 — Exhibits :

- C-1 - photograph of Gina Renee Hall
- C-2. Gina Hall shoe (Dress)
- C-3. Diana Hall shoe (Dress)
- C-4. (Stem 63 Laboratory sheet)
white jacket
- C-5. (Stem 62 - Lab sheet)
white slacks
- C-6 - (Stem 61 - Lab sheet)
Body suit
- C-7. (Stem 60, Lab sheet)
panties
- C-8 - Car rollers set of Gina Hall
- C-9. contents of clutch purse of Diana Hall

12/11/80

- C-10. (Stem 6, Lab sheet)
Ankle bracelet
- C-11. Map
- C-12. Aerial photograph
- C-13. " "
- C-14 to 31: photographs
- C-32-37: photographs
- C-38-40: photographs
- C-41-42: photographs
- C-43-47: photographs
- C-48 - pair of brown shoes
- C-49 - Refrigerator door
- C-50 - Maddock

Comm. v. Epperly

12/12/80

- C-51. Blue towel
- C-52. Underwear of Stephen Epperly
- C-53. Refused
- C-54. Refused
- C-55. Refused
- C-56. Copy of dog pedigree
- C-57. Registration certificate of dog

12/15/80

- C-58. Hand towel
- C-59. Can cap, green (objected to)
- C-60. Blue striped towel
- C-61. Carpet from car trunk
- C-62. Medical records of Gina Ricci Hall
- C-63. Hair sample of Diana Hall
- C-64. pubic hair sample of Stephen Epperly
- C-65. Head Hair sample of Epperly
- C-66. Hair from curlers
- C-67. S.E. Belmer hair sample
- C-68. Sample of carpet from den
- C-69. Hairs from carpet in trunk
- C-70. Blood stain from light switch from first floor Bath.
- C-71. light switch plate from first floor Bath.
- C-72. Blood sample from light switch -
- C-73. Stain from carpet
- C-74. Stain from walk in front of sliding glass doors of Louis House.
- C-75. fibers from carpet
- C-76. Stain from side of chair

Comm. v. Epperly
12/15/80 - cont.

- C-77- Stain from faucet handle
- C-78. Moulding from refrigerator door
- C-79- Orange pitcher
- C-80- dust pan
- C-81. Golf shoe
- C-82. Hair from refrigerator door
- C-83- Hair sample from blue towel
- C-84. Hair from golf shoe
- C-85. Hair from green cap
- C-86. Hair sample from white pants, striped
towel & purple body suit.
- C-87- Contact Swabs -
- C-88- Blood sample of defendant Epperly -
- C-89- Salivary sample of Epperly
- C-90- Head hairs of Mrs. Davis
(2 packs 1 & 2)

12/16/80

- C-91- Siccata drawn by Mrs. Hamby
- C-92. Chart of Mr. Porter
- C-93. Hairs from bag & carpet.
- C-94. Package with glass slides
- C-95- fibers
- C-96- Sclairs from blue towel fabric
- C-97- Sclairs from refrigerator door

#34 - withdrawn by Comm. Atty.
#53, 54, 55 - Refused by Court -

97
4
93 Exhibits
Admitted

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

FELONY NO. 80.203

STEPEHN MATTESON EPPERLY

O R D E R

This day came again the Attorney for the Commonwealth and Stephen Matteson Epperly, in person and by R. Glennwood Lookabill, Esq. and R. David Warburton, Esq., his attorneys, and came also the jury heretofore sworn to try the case.

It is ORDERED ~~that~~ all of the evidence and other incidents of trial be recorded verbatim on electronic equipment operated by Elinor E. Williams, Court Reporter, who was sworn so to do.

Thereupon the Commonwealth continued the presentation of its evidence.

Thereupon the Attorney for the Commonwealth moved the Court to allow it to submit into evidence the results of a polygraph test taken by the defendant, which motion was overruled and exception was noted.

At the conclusion of the Commonwealth's evidence, the attorneys for the defendant moved the Court to strike the Commonwealth's evidence on grounds stated in the record, which motion was overruled and 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, Stephen Matteson Epperly, guilty of first degree murder, as charged in the indictment and fix his punishment at life imprisonment.

/s/ "J. M. Brown
"Foreman"


Thereupon the defendant, by counsel, moved to poll the jury, which was done, and each juror confirmed that the verdict as read was his or her verdict.

The attorneys for the defendant then moved the Court to set aside the verdict, for reasons stated in the record, which motion was overruled, to which ruling the defendant by counsel excepted.

The Court, on motion of the defendant, by counsel, before fixing punishment or imposing sentence, doth direct the Probation Officer of this Court to thoroughly investigate and report to the Court as provided by law and this case is continued.

Thereupon the defendant, by counsel, moved the Court to continue the bond of the defendant pending the filing of said presentence report, which motion was denied and the defendant is remanded to jail.

Enter this order this 16th day
of December, 1980.



Judge

INSTRUCTION NO. 1

The defendant is charged with the crime of murder. In every murder case the Commonwealth must first prove that the person alleged to have been murdered is in fact dead and that such death was caused by criminal violence. These elements may be proved either by direct evidence or by proof so strong as to produce the full assurance of moral certainty.

*James
W. ...*

///

INSTRUCTION NO. 2

The defendant is charged with the crime of first degree murder. The Commonwealth must prove beyond a reasonable doubt each of the following elements of that crime:

- 1) That the defendant killed Gina Renee Hall; and
- 2) That the killing was malicious; and
- 3) That the killing was willful, deliberate and premeditated.

If you find from the evidence, beyond a reasonable doubt and to a full assurance of moral certainty, that Gina Renee Hall is dead and that her death was caused by criminal violence as explained in Instruction No. 1, and if you further find from the evidence the Commonwealth has proven beyond a reasonable doubt each of the above elements of the offense as charged, then you shall find the defendant guilty of first degree murder and fix his punishment at:

- 1) Imprisonment for life; or
- 2) A term of imprisonment of not less than twenty (20) years.

If you find the Commonwealth has failed to prove beyond a reasonable doubt and to the full assurance of moral certainty that Gina Renee Hall is dead and that her death was caused by criminal violence; or if you find the Commonwealth has failed to prove beyond a reasonable doubt any one or more of the elements of the offense hereinabove stated, then you shall find the defendant not guilty.

*قانون
صائب*

INSTRUCTION NO. 3

The defendant is also charged with the crime of second degree murder. The Commonwealth must prove beyond a reasonable doubt each of the following elements of that crime:

- 1) That the defendant killed Gina Renee Hall; and
- 2) That the killing was malicious.

If you find from the evidence, beyond a reasonable doubt and to a full assurance of moral certainty, that Gina Renee Hall is dead and that her death was caused by criminal violence as explained in Instruction No. 1, and if you further find from the evidence that the Commonwealth has proven beyond a reasonable doubt each of the above elements of the offense as charged, then you shall find the defendant guilty and fix his punishment at a term of imprisonment of not less than five (5) years nor more than twenty (20) years.

If you find the Commonwealth has failed to prove beyond a reasonable doubt and to the full assurance of moral certainty that Gina Renee Hall is dead and that her death was caused by criminal violence; or if you find the Commonwealth has failed to prove beyond a reasonable doubt any one or more of the ^{above} elements of the offense beyond a reasonable doubt, then you shall find the defendant not guilty.

*given
p. 113*

INSTRUCTION NO. 4

If the Commonwealth has proved beyond a reasonable doubt that there was an unlawful killing, then you are entitled to infer that there was malice and that the act was murder in the second degree, unless other evidence raises a reasonable doubt as to whether malice existed.

*quinn
v. wa.*

INSTRUCTION NO. 5

You have been instructed on first degree murder and second degree murder and if you have a reasonable doubt as to the grade of the offense, then you must resolve that doubt in favor of the defendant and find him guilty of the lesser offense.

For example, if you have a reasonable doubt as to whether the defendant is guilty of first degree murder or second degree murder, you shall find him guilty of second degree murder. If you have a reasonable doubt as to whether he is guilty of second degree murder, you shall find him not guilty.

*guilty
murder*

INSTRUCTION NO. 6

The burden is upon the Commonwealth to prove by the evidence beyond a reasonable doubt every material and necessary element of the offense charged against the defendant. It is not sufficient that the jury may believe his guilt probable, or more probable than his innocence. Suspicion or probability of guilt, however strong, will not authorize a conviction, but the evidence must prove his guilt beyond a reasonable doubt. The jury shall not speculate or go outside the evidence to consider what they think might have taken place, but you are to confine your consideration to the evidence introduced and unless you believe, upon a consideration of all the evidence before you, that guilt of the defendant has been proven beyond a reasonable doubt as to every material and necessary element of the offense charged against him, then you shall find the defendant not guilty.

The burden resting upon the Commonwealth to prove guilt of the defendant beyond a reasonable doubt does not require that such guilt be proven beyond every imaginable, conceivable or possible doubt, but only beyond a reasonable doubt. The jury must limit its consideration to the evidence introduced, and you are not to go outside the evidence to hunt up doubts, nor must you entertain doubts which are speculative or conjectural. And if, upon a consideration of all the evidence you are satisfied of the guilt of the defendant beyond a reasonable doubt, then you shall find the defendant guilty.

There is no burden on the defendant to produce any evidence.

*given
pwa.*

116

INSTRUCTION NO. 6A

The defendant is presumed to be innocent of the offense with which he is charged and this presumption of innocence goes with him through the entire case and applies at every stage thereof and is sufficient to require you to find the defendant not guilty unless and until the Commonwealth upon whom the burden rests, proves his guilt beyond a reasonable doubt, and the Court further tells you that it is not sufficient that facts and circumstances proved be consistent with the guilt of the defendant, but they must be inconsistent with every reasonable hypothesis consistent with the innocence of the defendant.

*given
was*

INSTRUCTION NO. 7

"Willful, deliberate, and premeditated" means the adoption of a specific intent to kill. The intent to kill must come into existence at some time before the killing, but need not exist for any particular length of time.

*given
with*

INSTRUCTION NO. 8

The malice necessary to constitute a crime of murder may be either express or implied. The word "malice" in the foregoing definitions of murder is used in a technical sense, and includes not only anger, hatred and revenge, but every unlawful and unjustifiable motive. It is not confined to ill will to any one or more particular persons, but is intended to denote an action flowing from a wicked or corrupt motive, done with an evil mind and purpose and wrongful intention, where the act has been attended with such circumstances as to carry in them the plain indication of a heart regardless of social duty and deliberately bent on mischief; therefore, malice is implied by law from any willful, deliberate and cruel act against another, however sudden.

*given
back*

INSTRUCTION NO. 9

To prove the charge of murder the Commonwealth does not have to prove a motive for the killing. The presence or absence of a motive may be considered in arriving at your verdict.

*given
mark,*

INSTRUCTION NO. 10

It is not necessary that facts be proved by direct evidence, for they may also be proved by circumstantial evidence. You may convict the defendant on circumstantial evidence alone, or on circumstantial evidence combined with other evidence, if you believe from all the evidence that the defendant is guilty beyond a reasonable doubt.

However, when the Commonwealth relies upon circumstantial evidence you should consider such evidence with great care and caution. The circumstances proved must be consistent with guilt and inconsistent with innocence. It is not sufficient that the circumstances proved create a suspicion of guilt, however strong, or even a probability of guilt.

The evidence as a whole must exclude every reasonable theory of innocence.

The jury is reminded that you must believe from the evidence beyond a reasonable doubt and to a full assurance of moral certainty that Gina Renee Hall is dead and that her death was caused by criminal violence.

*given
was*

INSTRUCTION NO. 11

You are the judges of the facts, the credibility of the witnesses and the weight of the evidence. You may consider the appearance and manner of the witnesses on the stand, their intelligence, their opportunity for knowing the truth and for having observed the things about which they testified, their interest in the outcome of the case, their bias, and, if any have been shown, their prior inconsistent statements. While you have no right to arbitrarily disregard believable testimony of any witness, you do have a right to discard or accept in whole or in part the testimony of any witness which you think is proper to discard or accept when you consider it in connection with the other evidence in the case. You are entitled to use your common sense in judging any testimony. From these things and all the other circumstances of the case, you may determine which witnesses are more believable and weigh their testimony accordingly.

*given
back*

INSTRUCTION NO. 12

If you find the defendant guilty, you should impose such punishment as you feel is just under the evidence and within the instructions of the Court. You are not to concern yourselves with what may happen afterwards.

*given
back*

123

INSTRUCTION NO. 13

The jury is instructed that evidence of tracking human scent by animals is of the weakest variety and with that in mind you shall give that evidence such weight and effect as you deem appropriate in your judgment.

*Revised
msa.*

FORMS OF VERDICT

We, the jury, find the defendant, Stephen Matteson Epperly, guilty of first degree murder, as charged in the indictment, and fix his punishment at life imprisonment

J M Brown
Foreman

OR

We, the jury, find the defendant, Stephen Matteson Epperly, guilty of second degree murder, as charged in the indictment, and fix his punishment at _____

Foreman

OR

We, the jury, find the defendant, Stephen Matteson Epperly, not guilty.

Foreman

Lookabill & Warburton

ATTORNEYS AT LAW
POST OFFICE BOX 1506
PULASKI, VIRGINIA 24301

R. GLENWOOD LOOKABILL
ROY DAVID WARBURTON

73 THIRD STREET, N.W.
COURTHOUSE SQUARE
(703) 980-0220

December 18, 1980

Honorable R. William Arthur
Judge, 27th Judicial Circuit
Pulaski, Va. 24301

RE: COMMONWEALTH v. STEPHEN MATTESON EPPERLY

Dear Judge Arthur,

Upon request of our client, Stephen Matteson Epperly, we respectfully ask permission of the Court to withdraw the defense motion for a pre-sentence report. In addition, we request that sentencing be accomplished as soon as possible.

Respectfully,

LOOKABILL & WARBURTON



Roy David Warburton

rlm

cc: Gerry J. Atkinson, Clerk
Everett P. Shockley, Commonwealth Attorney
Stephen M. Epperly

Received and filed, this the 18
day of December, 1980
Clerk
By Mildred A. Keen, DC

126

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

FELONY NO. 80.203

STEPHEN MATTESON EPPERLY

O R D E R

This day came again the Attorney for the Commonwealth and Stephen Matteson Epperly, whose date of birth is May 10, 1952, and who stands convicted of murder in the first degree, was led to the bar in the custody of the Sheriff, and came also R. David Warburton, Esq., and R. Glennwood Lookabill, Esq., his attorneys heretofore appointed.

It is ORDERED that all of the evidence and other incidents of trial be recorded verbatim on electronic equipment operated by Elinor E. Williams, Court Reporter, who was sworn so to do.

Upon the written request of the defendant, and by the defendant in person, it is ORDERED that the Court's direction that a presentence investigation be made in this case be vacated.

Thereupon the defendant, by counsel, renewed his motion to set aside the jury verdict, which motion was overruled, to which ruling the defendant by counsel excepted.

Thereupon the defendant, by counsel, moved the Court to reduce the sentence imposed by the jury, which motion was denied and exception was duly noted.

The Court then asked the defendant whether he desired to make a statement or to advance any reason why judgment should not be pronounced against him. The Court having heard and considered the defendant's statement, the Court finds the defendant guilty of first degree murder, as charged in the indictment and sentences the defendant to confinement in the penitentiary of this Commonwealth for life.

It is further ORDERED that the defendant pay the costs of this proceeding.

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 ORDERS that the defendant be allowed 67 days credit for the time spent in jail awaiting trial, this computation being made through the date of his conviction, December 19, 1980.


Thereupon counsel for the defendant advised the Court that the defendant desires to appeal the judgment of this Court and moved the Court to suspend execution of this sentence while he is seeking said appeal and to fix bond, which motion is denied, to which action of the Court the defendant, by counsel, excepted.

It is further ORDERED, pursuant to Rule 5:9(a) that the transcript of the evidence and incidents of this trial be made a part of the record when it is prepared and filed in the office of the Clerk within sixty (60) days after entry of this order.

The Court certifies that at all times during the trial of this case the defendant was personally present and his attorneys were likewise personally present and capably represented the defendant for which services they are allowed an attorney's fee of \$400⁰⁰ each, which sum shall be certified to the Supreme Court of Virginia for payment.

And the defendant is remanded to jail to await transfer to the penitentiary.

Enter this order this 19th day
of December, 1980.


Judge

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

STEPHEN MATTESON EPPERLY

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M O T I O N

Come this day R. Glennwood Lookabill and Roy David Warburton, attorneys appointed by the Court to represent the Defendant in this action, to request the Court to relieve them of any further duties in this case.

The attorneys represent that Mr. Epperly has refused to cooperate with them and has, in addition, asked the Court to relieve his counsel.

RESPECTFULLY SUBMITTED,

R. Glennwood Lookabill
Roy David Warburton

C E R T I F I C A T E

I hereby certify that a copy of the above Motion was hand delivered to Everett P. Shockley, Commonwealth Attorney, 45 Third Street, Pulaski, Virginia 24301, on this the 19th day of December, 1980.

Roy David Warburton

Received and filed, this the 19th
day of Dec, 1980

Henry Hesterman Clerk
Pulaski

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

STEPHEN MATTESON EPPERLY

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O R D E R

Came this day R. Glennwood Lookabill and Roy David Warburton, attorneys appointed by the Court to represent the Defendant, upon a joint motion to be relieved as counsel.

Upon careful consideration of the matter, and for the reasons stated in the motion filed this date, the Court hereby relieves R. Glennwood Lookabill and Roy David Warburton from any further duties in the representation of the Defendant in this matter.

Further, it is ordered that Max Jenkins & R. Keith Neely discreet and competent attorneys practising before the bar of this Court be, and hereby is, appointed to represent the Defendant for the purposes of appeal in this matter.

Enter this the 19th day of December, 1980.

R. William Arthur
R. William Arthur

We ask for this:

Roy David Warburton

R. Glennwood Lookabill

Jury Selection: 12/18/80
1/9/80

Trial Date: 12/10/80
Sentencing Date: 12/19/80
DOB:

COMMONWEALTH

File No.: 80.203

vs.

Stephen Matteson Epperly

ATTY. - DISTRICT CT. Emp.: CAC

CIRCUIT CT. R. Glennwood Lookabill Emp.: CAC X
David Warburton

CHARGE: Murder (First Degree) (5/12/80 7 Sentencing for Appeal purposes)

PLEA: Arraigned 11/17/80 NOT Guilty - COURT R.W. ARTHUR JURY 12/19/80

GUILTY OF: First degree Murder -

NOT GUILTY NOLLE PROSEQUI

SENTENCE: Life Imprisonment verdict by jury -
12/19/80 - St. Pen. for life -

SUSPENDED PERIOD OF SUSP.

CONDITIONS FOR SUSPENSION:

PROBATION: YES NO ACTIVE SUPERVISION:

PRESENTENCE REPORT: Ordered 12/16/80 - Motion withdrawn 12/18/80.

OFFENSE CLASSIFICATION: Ordered prior order be vacated -
MISDEMEANOR #
FELONY # CLASS 2

APPEAL NOTED: In open Court 12/16/80 -

WITNESSES SWORN: - over -

TYPE OF BOND: PROPERTY CASH AMOUNT

COURT REPORTER: Elinor Williams Dist. Ct. Costs: \$
Circuit Ct. Costs: \$ 57.50

Amt. of Fine: \$
CAC Fee: \$ 800.00

Ret. Rep. Fee: \$ 310.00 + Jury costs.

Docketed Judgment For: \$

Lin. Ct. Jury Costs:
12/18/80 - bailman costs: \$ 300.00
12/19/80 - bailman costs: 300.00
12/10/80 - Trial Jury costs: 234.05
12/11/80 " " " : 234.05
12/12/80 " " " : 234.05
12/15/80 " " " : 234.05
2/16/80 " " " : 234.05
\$ 1,770.25

Witnesses -

12/10/80:

- ① 1:35 P.M. - ELANA HALL
 - ② 4:30 P.M. - DR. JANE TATAMAN
 - ③ 4:40 P.M. - JOHN HALL
- Adjourn: 5:10 P.M.

12/11/80:

- ① 9:40 A.M. - Dixie BAUMAN
 - ② 9:50 A.M. - Deborah STANLEY
 - ③ 9:55 AM. - Rita HAAS
 - ④ 10:10 A.M. - DIANE TATE
 - ⑤ 10:15 A.M. - BETH COOK
 - ⑥ 10:40 A.M. - Bill King.
 - 12:40 - Recess - Lunch
 - ⑦ 1:50 P.M. - Robin ROBINSON
 - ⑧ 2:40 P.M. - Lloyd MATTHEWS
 - ⑨ 2:50 P.M. - ~~Deputy Bill Patton~~ Sgt. F. W. DUFFY, VA.
 - ⑩ 3:00 P.M. - Agent W. B. Wilmore, USP
 - ⑪ 3:03 P.M. - Deputy William Patton, RSD
 - ⑫ 3:15 P.M. - Robert LENT
 - ⑬ 3:25 P.M. - Craig Ruanan
 - 3:40 - Recess -
 - ⑭ 4:00 P.M. - Gerald Williams, R.A.D.
- Adjourn: 5:17 P.M.

12/12/80:

- ① 9:40 A.M. - Gerald Williams, R.P.D.
- ② 10:30 AM. - LORA OERMIER
- ③ 10:35 AM. - JEFFREY G. KISER
- 11:00 - Recess -
- ④ 11:25 A.M. - David AKERS
- ⑤ 11:45 AM. - ESTER SPERLEY
- ⑥ 12:15 P.M. - Gerald Williams, R.P.D.
- 12:20 P.M. - Recess - Lunch
- ⑦ 1:35 P.M. - John M. PRESTON
- 5:17 P.M. - Adjourn -

12/15/80:

- ① 9:40 A.M. - Ronald Davis
- ② 10:05 AM. - BETTY DAVIS
- ③ 10:40 AM. - Deputy Lavelle, R.S.D.
- 10:50 AM - Recess
- ④ 11:10 AM. - Sgt. M.E. Church, USP
- ⑤ 11:20 A.M. - David MATHERLY
- ⑥ 11:45 AM. - WARD RAYAL
- ⑦ 12:05 P.M. - Sgt. F. W. DUFFY, VA., USP
- 12:20 P.M. - Recess - Lunch
- ⑧ 1:20 P.M. - Sgt. F. W. DUFFY, VA., USP
- ⑨ 1:55 P.M. - TRP. C. A. HALL, USP
- 2:55 P.M. - Recess
- 2:55 P.M. - Conference in Chambers.
- ⑩ 3:40 P.M. - Agent W. B. Wilmore Jr., USP
- ⑪ 3:50 P.M. - Patricia Hamby
- 5:20 P.M. - Adjourn -

12/16/80:

- ① 30 A.M. - Patricia Hamby.
- ② 10:00 AM. - Robin D. PORTER
- ③ 10:25 AM - William CRANWELL -
- 10:35 AM. - Recess
- { 11:00 - Commonwealth Rest
- { Defense Motion to Strike
- { the evidence of the common-
- { wealth. -
- 11:15 A.M. - Court Ruling -
- Motion denied.
- Recess - Lunch - +
- Instructions
- 1:45 - Instruct Jury
- Argument -
- 2:00 - Shockey Argue -
- 3:05 - Shockey complete.
- 1:05
- 3:05 - Kookamine Argue -
- 4:10 - Kookamine complete.
- 1:05
- 4:10 - Shockey Rebuttal
- 4:35 - Shockey complete
- 25
- 1:05
- 1:30 -
- 4:35 - Jury deliberation
- 6:30 pm - Verdict
- "Life Imprisonment"

Loumouwenith

Stephen MATTESON EPPERLY

TRIAL JURY:

1. DANNY BRANCH
2. MYRTLE H. MERIDITH
3. GARY M. HOLCOMB
4. JAMES M. BROWN
5. RODNEY H. CARTER
6. DONALD L. CRESSILL
7. JUDY S. MINTER
8. SHIRLEY G. BELCHER
9. KENNETH D. HANCOCK
10. HAROLD L. BEAMER
11. VIRGINIA W. MORRIS
12. EILENE C. COMPTON

ALTERNATE JURORS:

1. MARK K. LUNDY
2. LAUANNA H. DOWELL

12/8: Veniemen - Allen + mileage -	6	300.00
12/9: Veniemen: Cit. Ct. Jury -	5	300.00
Attendance + Trial Jury - mi. (12/10)		234.05
" " " (12/11)		234.05
" " " (12/12)		234.05
" " " (12/15)		234.05
" " " (12/16)		234.05
		<hr/>
		\$ 1,770.25

CIRCUIT COURT JURORS - DECEMBER 8, 1980 9:30 A.M.

- ✓ 1. Kenneth D. Hancock - Xaloy
Rt. 1, Box 424-D
Draper, Va. 980-7560; 980-6639
- ✓ 2. James M. Brown - Blue Ridge Supply Co.
624 Cardinal Drive
Pulaski, Va. 980-4821; 980-7340
- STUCK 12/19/80 3. Earnest V. Dalton - Radford Arsenal
12 Spring Ave.
Radford, Va. 639-6340
- STUCK 12/8/80 -4. Berton D. Davis - Lowe's
Rt. 1, Alum Spring Road
Pulaski, Va. 980-6017; 980-8350
- STUCK 12/8/80 -5. Carl O. Farmer - Self Employed
Claytor Lake
Dublin, Va. 674-6283
- STUCK 12/19/80 6. Joann D. Mabry - Dublin Garment
625 Hudson Drive
Dublin, Va. 674-6285
- 12/5/80 7. Lisa M. Caviness - Xaloy - Dr. Excuse - (Dr. Haas)
4:00 PM - Rt. 1, Box 358A
Draper, Va. 980-4323; 980-7560 Pregnancy - Sta MO.
- STUCK 12/8/80 -8. Elizabeth K. Ratcliff - Dublin Garment
112 Tate Avenue
Dublin, Va. 674-5313
- ✓ 9. Marion D. Taylor - Vance Home Center
P. O. Box 784
Dublin, Va. 980-3300; 674-5785
- ✓ 10. Virginia W. Morris - Scissor Circuit Beauty Salon
Riverhaven Apt. B-1
Radford, Va. 639-6559
- STUCK 12/8/80 -11. Wilbur Hunter - Custodian
Rt. 3, Box 38
Pulaski, Va. 980-5313
- ✓ 12. Danny G. Branch - Lesters Janitorial Service
109 Tate Street
Dublin, Va. 639-2660; 674-4084
- ✓ 13. Patricia J. Garnand - Social Services
#12 Williamsburg Estates
Dublin, Va. 674-4372; 980-8888, Ext. 231
- ✓ 14. Rodney H. Carter - C & P Telephone Co.
Rt. 1, Box 200B
Dublin, Va. 674-8211; 345-5881
- ✓ 15. Charles D. Kidd - Radford Arsenal
Rt. 3, Box 504
Radford, Va. 639-5805; 639-8396

- ✓ 16. Judy S. Minter - Housewife
1509 Overton Drive
Pulaski, Va. 980-6963
- STRUCK** 17. Erma Y. Albert - Radford Arsenal
12/9/80 P. O. Box 76
Parrott, Va. 639-3871; 731-2643
- STRUCK** 18. Sharon F. Sayers - Housewife
12/19/80 Rt. 1, Box 176A
Dublin, Va. 674-6603
- STRUCK** 19. Everett W. Worrell - Federal Mogul
12/19/80 P. O. Box 136
Belspring, Va. 639-4588
- 16 20. Alma S. Thompson - Church Secretary
125 E. Locust Street
Dublin, Va. 674-5128; 674-6671
- 16 21. Lauanna H. Dowell - Va. Emp. Commission
Newbern
Virginia 674-6347
- STRUCK** - 22. Barbara E. Martin - Pulaski Assembly
12/8/80 13 Floyd Lane
Pulaski, Va. 980-1862; 980-4594
- ✓ 23. Mark K. Lundy - Truck Driver
151 E. Armstrong Street
Dublin, Va. 674-4433; 980-4821
- STRUCK** 24. Sandra T. Dickerson - Farris Farm
12/9/80 Rt. 100, Box 1337
Dublin, Va. 674-9247
- STRUCK** 25. Stella K. Fowlkes - Fowlkes Grocery
12/9/80 579 Bellvue Ave.
Pulaski, Va. 980-7063
- STRUCK** 26. Jerry A. Reed -
12/9/80 P. O. Box 82
Parrott, Va. 639-4088
- X 16 27. Edith C. White - Housewife - Excused 12/9/80
112 Main Street by Judge -
Dublin, Va. 674-1298
- X 30 28. Virgie A. Williams - Unemployed - ill today - 12/8/80
44 Ridge Road Excused by Judge -
Radford, Va. 639-2046
- 29. Audrey R. Wolfe - Wallaces Store
Newbern Road
Pulaski, Va. 980-1381; 980-7411
- 32 30. Joseph S. Soto - Retired
Rt. 1, Box 470
Radford, Va. 639-2660
- STRUCK** 31. Thomas H. Pifer - Radford Arsenal
12/9/80 831 Dunlap Road
Dublin, Va. 674-5401; 639-7161

STUCK
12/9/80

32. Priscilla M. Holmes - Housewife
Rt. 3, Box 14
Pulaski, Va. 980-1003; 980-3044

STUCK
12/9/80

33. Betty M. Allen - St. Albans
Rt. 1, Box 207
Dublin, Va. 674-5343; 639-2481

✓ 34. Patricia A. McGrady - Food Stamp Office
41 6th St. N. E.
Pulaski, Va. 980-1128; 980-8888

STUCK
12/9/80

35. Jo K. Anderson - Radford Arsenal
508 S. Maple Ave.
Dublin, Va. 674-5107; 639-7795

✓ 36. Donald L. Cressell - Harvey Chevrolet
Rt. 2, Box 137B
Dublin, Va. 674-8543; 639-9373

STUCK
12/8/80

37. Rebecca H. Jackson - Teacher - P.C.H.S.
P. O. Box 1023
Dublin, Va. 674-8229

✓ 38. Mozell Barker - Housewife
2148 Sunset Drive
Pulaski, Va. 980-3472

✓ 39. Ilene C. Compton - Welfare Dept.
Rt. 1, Box 145A
Pulaski, Va. 980-2439; 980-8888

✓ 32 ✓ 40. Karen S. Cox - Housewife
Rt. 1, Box 175-A
Hiwassee, Va. 639-2309

✓ 41. Myrtle H. Meredith - Retired
11 Second Street, N. W.
Pulaski, Va. 980-4908

✓ 42. Frank K. Huddleston - Retired
420 Powell Ave.
Dublin, Va. 674-6676

✓ 30 43. Harvey A. Brooks - Radford Arsenal
41 Collins Street
Dublin, Va. 674-5362

STUCK
12/9/80

44. Kenneth Bratton - Lynchburg Foundry
25 Brandon Road
Radford, Va. 639-3669

✓ 45. Gary M. Holcomb - Pulaski Dental Lab
Rt. 1, Box 17A
Pulaski, Va. 980-1039; 980-6977

✓ 46. Harold Lee Beamer - Retired
112 Eleventh Street, N. W.
Pulaski, Va. 980-6489

STRUCK
12/9/80

47. Verona F. Kegley - Housewife
1213 Peppers Ferry Road
Pulaski, Va. 980-3438

STRUCK -
12/8/80

48. William G. Litton - St. Albans
125 Cooper Drive
Dublin, Va. 674-4362; 639-2481

STRUCK
12/9/80

49. William E. Lewis - Lynchburg Foundry
243 Baskerville Street
Dublin, Va. 674-5106

STRUCK
12/9/80

50. Jane A. Farmer - Va. Maid
Rt. 3, Box 128
Pulaski, Va. 980-2492; 980-6220 Ext. 73

✓

51. Madeline S. Pound - Unemployed
Rt. 2, Box 65
Pulaski, Va. 980-4191

STRUCK
12/9/80

52. Joyce W. Abbott - Housewife
1604 Claremont Court
Pulaski, Va. 980-1247

22

53. Gladys Millirons - Dublin Garment
Star Route, Box 58
Dublin, Va. 980-7630

STRUCK
12/9/80

54. Madeline S. Marshall - Marshall's Store
Allisonia
Virginia 980-1856

STRUCK
12/9/80

55. Ruth E. Hardy - Farm Credit
P. O. Box 305
Newbern, Va. 674-8853; 674-5888

⊕

56. Sara G. Smith - Town of Pulaski
444 1st Street, S. W.
Pulaski, Va. 980-8750 - *Excused by Judge - Street Threat 12/8/80*

STRUCK
12/9/80

57. William J. Lancaster - Coleman Furniture
Rt. 1, Box 321
Hiwassee, Va. 639-9959

✓

58. Theodore Page - Unemployed
Baskerville Street
Dublin, Va. 674-9504

59. James Akers - Self Employed
28 Ridge Road
Radford, Va. 639-6524

✓

60. Shirley G. Belcher - Housewife
22 Mt. View Drive
Dublin, Va. 674-6677

Comm. v. Epperly 12/8/80

venire called for Examination.

~~56~~ ~~57~~
~~24~~ ~~24~~
~~32~~ ~~33~~

- ~~X~~1. BERTON D. DAVIS
- ~~X~~2. WILBUR HUNTER
- ✓3. DANNY BRADEN
- ~~X~~4. ELIZABETH RATCHITT
- ~~X~~5. ERMA ALBERT - excused 12/9/80
- ~~X~~6. WILLIAM LITTON
- ✓1. PATRICIA GARNAND
- ~~X~~2. BARBARA MARTIN
- ~~X~~3. FRIZZILLA HOLMES - excused 12/9/80
- ✓4. FRANK K. HIDDLESTON
- ✓5. HARVEY BROOKS
- ~~X~~6. CARL O. FARMER
- ✓1. RODNEY H. CARTER
- ✓2. BETTY M. ALLEN
- ~~X~~3. REBECCA H. JACKSON
- ✓4. PATRICIA A. McGRADY
- ✓5. THEODORA PAGE
- ~~X~~6. JAMES M. BROWN

12/9/80

- ✓1. Judy S. MINTEN
- X2. Earnest V. DALTON
- ✓3. Shirley G. Belcher
- X4. Kenneth Bratton
- ✓5. Kenneth D. Hancock
- ✓6. Karen S. Cox

- ✓1. Nettle H. Meredith
- X2. Thomas H. PIFEN
- ✓3. Gary M. Holcomb
- ✓4. Harold LEE BEAMEN
- ✓5. Marion D. TAYLOR
- ✓6. Virginia W. MORRIS.

- X1. Verona F. Kegley
- X2. Ruth E. Hardy
- X3. William E. LEWIS
- X4. JANE A. FARMER
- X5. JOANN D. MAHRY
- ✓6. DONALD L. CRESSELL
- ✓1. Ilene C. Compton
- X2. Joyce W. Abbott
- ✓3. Charles D. Kidd

ALTERNATE:

- ✓1. MARK K. Lundy
- X2. Everett W. Wozzell
- X3. Sandra T. Dickerson
- ✓4. Madeline S. Pound
- X5. Stella K. Fowlkes
- X6. SHARON F. SAYERS

- X1. Jo K. ANDERSON
- X2. Madeline S. MARSHALL
- ✓3. Morell Barker
- X4. Jerry A. REED
- X5. Wm. V. LANCASTER
- ✓6. ³⁰LORENA H. Dawell

Comm. v. Eppley 12/9/80

1. DANNY BRANCH
2. Myrtle H. Meridith
- O 3. HARVEY A. BROOKS
- O 4. PATRICIA GARNAND
5. GARY M. HOLCOMB
- X 6. FRANK K. HUDDLESTON
7. JAMES M. BROWN
8. RODNEY A. CARTER
9. DONALD L. CRESSELL
- X 10. PATRICIA A. McGRADY
- O 11. THEODORE PAGE
12. JUDY S. MINTER
13. SHIRLEY G. BEICHER
14. KENNETH D. HANCOCK
- X 15. KAREN S. COX
16. HAROLD LEE BEANLEN
- O 17. MARION D. TAYLOR
18. VIRGINIA W. MORRIS
19. ILENE C. COMPTON
- X 20. CHARLES D. KIDD

ALTERNATES:

1. MARK K. LUNDY
- X 2. MADELINE S. POUND
- O 3. MOZELL BARKER
4. LAVANNA H. DOWELL

Counsel:

To strike, please mark in left outside margin, to-wit:

(4 each for trial jury)

(1 each for ALTERNATES)

Commencement: "O"

Defendant: "X"

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

FELONY NO. 80.203


STEPHEN MATTESON EPPERLY

O R D E R

It appearing to the Court proper so to do, it is ORDERED that R. Keith Neely, Esq., Attorney at Law, Christiansburg, Virginia, a competent attorney practicing before this Court, be appointed as associate counsel with Max Jenkins, Esq. to prosecute the appeal in this case.

The Clerk is directed to transmit certified copies of this order to R. Keith Neely, Esq. and Max Jenkins, Esq. and to Everett P. Shockley, Esq., Attorney for the Commonwealth.

Enter this order this 24th day
of December, 1980.



Judge

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

Plaintiff

v.

NOTICE OF APPEAL

STEPHEN EPPERLY

Defendant

Comes now Stephen Epperly, the defendant herein, who was convicted in a jury trial of first degree murder and given life imprisonment, hereby files this Notice of Appeal to the judgment rendered therein. There will not be a transcript rendered hereinafter, the said transcript being made a part of the record by final order entered herein.

STEPHEN EPPERLY

By *Max Jenkins*
Counsel for Defendant

CERTIFICATE OF MAILING

I, the undersigned Max Jenkins, do hereby certify that I have this 24th day of December, 1980, have mailed a true copy of the foregoing Notice of Appeal to Everett Shockley, Esquire, Attorney for the Commonwealth, P. O. Box 1056, Dublin, VA 24084.

Max Jenkins
Max Jenkins

Received and filed, this the 29th
day of December, 1980
Missy Hutchinson Clerk

LAW OFFICE
MAX JENKINS
POST OFFICE BOX 866
RADFORD, VA 24141

V I R G I N I A : IN THE CIRCUIT COURT OF MONTGOMERY COUNTY

COMMONWEALTH OF VIRGINIA

V.

STEPHEN MATTESON EPPERLY

1. Murder

TO: THE HONORABLE G. J. ATKINSON, CLERK OF SAID COURT

Pursuant to Rule 5:6, Rules of the Supreme Court of Virginia, the undersigned defendant, who is aggrieved by the final judgment rendered in the above-styled case on December 19, 1980, does hereby file with the Clerk, his Notice of Appeal. A transcript or statement of facts, testimony and actual incidents of the case will not be filed hereafter as these things were made part of the record pursuant to the order of final judgment rendered December 19, 1980.

RESPECTFULLY SUBMITTED,

BY:

Max Jenkins

Max Jenkins
Max Jenkins, Attorney at Law

R. Keith Neely

R. Keith Neely
Neely & Hamrick, P.C.

C E R T I F I C A T I O N

We, Max Jenkins and R. Keith Neely, hereby certify that on the 5th day of January, 1981, mailed a true and correct copy of the foregoing Notice of Appeal to Everett P. Shockley, Commonwealth's Attorney for Pulaski County, 251 West Main Street, Pulaski, Virginia 24201.

Max Jenkins

Max Jenkins

R. Keith Neely

R. Keith Neely

Received and filed, this the 5th
day of January, 1981
Clary Heston
Pulaski Clerk

NEELY & HAMRICK, P.C.
ATTORNEYS AT LAW
P. O. BOX 709
CHRISTIANSBURG, VA. 24073

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 23rd day of January, 1981.

Stephen M. Epperly, Appellant,
against
Commonwealth of Virginia, Appellee.

From the Circuit Court of Pulaski County

On January 5, 1981, came Stephen M. Epperly, by his court-appointed counsel, and filed a petition praying that the court grant an extension of time to perfect an appeal from a judgment rendered against him by the Circuit Court of Pulaski County.

On consideration whereof, it is ordered that the time to file with the clerk of this court the record and the petition for appeal be, and the same is hereby, extended to a date not later than 3 months and 30 days after entry of final judgment in this case.

A Copy,

Teste:

Allen L. Lucy
Clerk

BOOK 036 PAGE 525

*Recd. 1/26/81
644 - Clerk*

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VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA)

v.)

STEPHEN MATTESON EPPERLY)

P E T I T I O N

Comes this day R. Glennwood Lookabill and Roy David Warburton, Court Appointed Counsel for Stephen Matteson Epperly, seeking reimbursement of the following costs expended in the above-styled case.

Mack Wilson, investigation.....	\$ 600.00
Long distance calls.....	63.02
Travel.....	38.06
Supreme Court pleadings.....	3.11
Total Costs.....	<u>\$ 704.19</u>

Respectfully submitted,

R. Glennwood Lookabill

LOOKABILL & WARBURTON
Attorneys at Law
73 Third Street, N.W.
P.O. Box 1506
Pulaski, Virginia 24301

*Received by J. T. ... - Attorney 17, 1981
Mary A. ... Clerk*

VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY


COMMONWEALTH OF VIRGINIA)	
)	
)	
v.)	O R D E R
)	
)	
STEPHEN MATTESON EPPERLY)	

Comes this day R. Glennwood Lookabill and Roy David Warburton, Court Appointed Counsel for Stephen Matteson Epperly, seeking reimbursement of costs expended in this case pursuant to the provisions of Section 19.1-163 of the Code of Virginia, as amended.

Finding it proper so to do, the Court hereby ORDERS that the Clerk of this Court certify to the proper authorities the payment of the following expenses:

Mack Wilson, investigation.....	\$600.00
Long distance calls.....	63.02
Travel.....	38.06
Supreme Court pleadings.....	3.11
	<hr/>
TOTAL.....	\$704.19

Enter this the 17th day of February, 1981.


R. William Arthur, Judge

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 19th day of February, 1981.

Stephen M. Epperly, Appellant,
against
Commonwealth of Virginia, Appellee.

From the Circuit Court of Pulaski County

On February 9, 1981, came Stephen M. Epperly, by his court-appointed counsel, and filed a request praying that the court grant an extension of time to perfect an appeal from a judgment rendered against him on December 11, 1980, by the Circuit Court of Pulaski County.

On consideration whereof, it is ordered that the time to file with the clerk of the said court the transcript in accordance with Rule 5:9 be, and the same is hereby, extended until March 11, 1981.

A Copy,

Teste:

Allen L. Lucy
Clerk

BOOK 036 PAGE 613

145

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 9th day of September, 1982.

Stephen Matteson Epperly, Appellant,
against Record No. 810626
Circuit Court No. F-80.203
Commonwealth of Virginia, Appellee.

Upon an appeal from a judgment rendered by the Circuit Court of Pulaski County on the 19th day of December, 1980.

For reasons stated in writing and filed with the record, the court is of opinion that there is no error in the judgment appealed from. Accordingly, the judgment is affirmed. The appellant shall pay to the Commonwealth of Virginia thirty dollars damages and the costs expended herein.

It is ordered that the said circuit court allow counsel for the appellant a fee of \$550 for services rendered the appellant on this appeal, in addition to counsel's costs and necessary direct out-of-pocket expenses.

The Commonwealth shall recover of the appellant the amount paid court-appointed counsel to represent him in this proceeding, counsel's costs and necessary direct out-of-pocket expenses, and the fees and costs to be assessed by the clerk of this court and the clerk of the court below.

This order shall be forthwith certified to the said circuit court.

Appellee's costs:

A Copy,

Attorney's fee \$ 50.00
Printing brief 200.00

Teste:

Allen L. Lucy
Clerk

Costs due the Commonwealth by appellant in Supreme Court of Virginia:

Attorney's fee \$550.00 plus his costs and expenses

Teste:

Allen L. Lucy
Clerk

CHIEF JUSTICE
HARRY L. CARRICO

JUSTICES
GEORGE M. COCHRAN
RICHARD H. POFF
A. CHRISTIAN COMPTON
W. CARRINGTON THOMPSON
ROSCOE B. STEPHENSON, JR.
CHARLES S. RUSSELL

SENIOR JUSTICE
ALEX. M. HARMAN, JR.

SUPREME COURT OF VIRGINIA
SUPREME COURT BUILDING
RICHMOND, VIRGINIA 23219

September 21, 1982

CLERK
ALLEN L. LUCY
DEPUTY CLERK
DAVID B. BEACH
EXECUTIVE SECRETARY
ROBERT N. BALDWIN
ASST. EXECUTIVE SECRETARY
FREDERICK A. HODNETT, JR.
CHIEF STAFF ATTORNEY
JOHN THOMAS BRUCE
STATE REPORTER
NEILL H. ALFORD, JR.

Hon. Gerry J. Atkinson
Clerk, Circuit Court of
Pulaski County
P.O. Box 270
Pulaski, Virginia 24301

Dear Mr. Atkinson:

The case of Stephen Matteson Epperly v. Commonwealth of Virginia, Record No. 810626, having been disposed of in this Court, I am returning herewith the record and exhibits.

Sincerely yours,

Allen L. Lucy

By: *R.R. Bie*

Deputy Clerk

RRB/dam

Enclosures

Present: All the Justices

STEPHEN MATTESON EPPERLY

OPINION BY JUSTICE CHARLES S. RUSSELL
September 9, 1982

-v- Record No. 810626

COMMONWEALTH OF VIRGINIA

FROM THE CIRCUIT COURT OF PULASKI COUNTY
R. WILLIAM ARTHUR, JUDGE

The defendant, Stephen Epperly, was tried by a jury, convicted of the first degree murder of Gina Hall, and sentenced to life imprisonment. The victim's body was never found. The evidence was entirely circumstantial, both as to proof of the corpus delicti and as to the element of premeditation. The defendant's appeal raises questions concerning the sufficiency of the evidence to prove these elements, the admission of evidence concerning the victim's good character, the admission of evidence of experiments conducted with a tracking dog, and certain additional assignments of error. We affirm the conviction.

The facts are undisputed. After the court denied his motion to strike the Commonwealth's evidence, the defendant presented no evidence and rested. We review the evidence in the light most favorable to the Commonwealth.

THE FACTS

Gina Hall disappeared the night of June 28, 1980. She was last seen leaving the Marriott Hotel in Blacksburg with the defendant. She was last heard from that same night when she called her sister and said she was at a lake house with the defendant.

In June 1980, Gina Hall, eighteen, was a freshman at Radford University. She lived in Radford with her older sister, Dlana, a graduate student, while both took summer courses. A number of witnesses testified to Gina's excellent reputation. She was described as "very beautiful," well dressed, pleasant, soft-spoken, and popular with her peers as well as with older people. She had close family ties. She particularly loved and respected her father, who said she was "a very, very good child." Gina was

athletic and loved dancing. She was a church-goer, used alcohol very sparingly, and did not use drugs or tobacco. She had no serious psychological or physical problems and had never been away from home without permission. She was described as "a very happy person - never depressed."

Nevertheless, Gina was modest and self-conscious in her dress and in her physical relationships. This modesty was the result of an accident she had in early childhood. When Gina was two years old her pajamas caught fire from a gas stove and she was badly burned. She had many skin grafts at the University of Virginia Hospital and had permanent scars on her right side, abdomen, upper right arm, and right thigh. Gina dressed modestly because she was self-conscious about her scars. She covered herself with towels at the beach until she actually entered the surf. Dlana testified with reference to these scars, "She could not have handled the emotional stress of having a [physical] relationship with somebody and she never put herself in that situation." When Gina was ten, she had to return to the hospital for additional abdominal skin grafts because of the grafted skin's inability to stretch as she grew. She told her stepmother and sister that she was afraid that if she ever became pregnant her skin would be unable to stretch any further. Dlana testified that most of Gina's dates were "just friends," usually boys with whom she played tennis. She never "dated any slouch."

Gina was about five feet tall and weighed about 107 pounds. When she drove Dlana's car she had to move the seat so far forward that Dlana, who was four inches taller, could not get behind the wheel unless it was moved back again. The defendant is about six feet tall.

Both girls had been taking summer mid-term exams during the week of June 22-28, 1980. Gina finished her last exam on Saturday, June 28. She was in a "great mood" and wanted to go dancing at the Marriott in Blacksburg. Dlana was too tired to go, but

lent Gina her brown Chevrolet for the evening. Gina left about 10:00 p.m., wearing a white jacket and white high-waisted long trousers over a purple body suit with matching shoes. She wore an ankle bracelet of gold interlocked hearts. This was the only time that Dlana recalled in which Gina went out socially by herself. Dlana did not know whether Gina expected to meet anyone she knew at the Marriott. Dlana never saw her again.

Dlana had been asleep for some time when she was awakened by a call from Gina whose voice sounded "very uneasy [or] out of character --- very nervous." The court excluded the content of this conversation on the ground of hearsay, although the jury later learned the defendant's version of it through the defendant's statement to the police, which was admitted. The conversation lasted about two minutes. Dlana estimated the time at about 1:00 a.m. Gina has not been heard from since.

Bill King, twenty-seven, was a very close friend of the defendant, having known him since both were small children. King and the defendant planned to go to the Blacksburg Marriott for a "night out" on Saturday, June 28. King picked the defendant up in King's car about 10:00 p.m. They drove first to the home of King's mother and stepfather, Mr. and Mrs. Ronald Davis, on Claytor Lake, to see that it was secure. The Davises were away on vacation and had asked King to check the house occasionally since some vandalism had been occurring in the area. Finding the house in good order, King and the defendant drove to Blacksburg. They arrived at the Marriott about 11:00 p.m. and joined three friends, one of whom knew Gina.

Gina arrived at the Marriott at the same time. Although neither King nor the defendant knew her, the defendant danced with her four or five times. Later he asked King if he could borrow his car and the key to the house on the lake. King told him he was welcome to use the house, but that he couldn't let him have the car. The defendant asked Gina if they could take her car and she agreed. King testified, "She seemed to be confused as to what car was going and exactly who was going. I think when she came

out she thought maybe I" Gina and the defendant left in the Chevrolet.

Later that night Robin Robinson and Bill King decided to go to the lake house for a swim. When they arrived at the house at 4:00 a.m., they observed that the brown Chevrolet was parked in the driveway, and that there were no lights on in the house. Wishing to be discreet, King entered the house from the upper level, slammed the doors, and turned on the kitchen light. The defendant was in the den on a lower level. He called up the stairs, "Bill, is that you?" King did not see him, but called back, "I've got somebody with me and we're going down to the dock and go swimming." the defendant replied, "Well, we've got to leave." King said, "Well, that's o.k., you don't have to leave. Hang around We're just going swimming." The defendant said, "[S]he's got to be getting back." Robin looked down the stairs and saw the defendant, in trousers but shirtless, wiping his shoulders with a towel. Neither she nor King heard or saw any sign of Gina.

King and Robin went to the dock, where King remained while Robin went swimming for 15 or 20 minutes. While they were there, the defendant came out to the glass doors facing the lake, flashed the outside lights momentarily and called, "Bill, I'll see you later; we're leaving." There were no lights on indoors and neither King nor Robin heard or saw anyone else. They did not hear the car start and it was out of their view.

About five minutes later, King and Robin re-entered the house through the glass doors. Just inside, King, who was barefooted, stepped in a wet spot in the carpet. King pulled some cushions onto the floor, which he and Robin lay upon. Again, he noticed that his "foot was in something wet." He mentioned it to Robin; he thought it was water, and assumed that the defendant and Gina had been swimming and might have left wet clothing or towels there.

King drove Robin home about 10:00 a.m., Sunday, June 29. He picked up his four-year-old son, who had been visiting his grand-

mother, and returned to the Davis house on the lake about noon to take the child swimming. Shortly thereafter, the defendant arrived, alone, in his own car, followed by two other friends. King took the boy swimming while the others pitched horseshoes. The defendant was always welcome to use the house and was fully familiar with it. Nevertheless, he came down to the dock to ask King if he might go inside to get a drink. King told him to help himself. He thought the defendant remained inside an unusually long time and when he reappeared asked him, "Did you fall in a hole or something up there?" The defendant answered, "Well, I couldn't find an opener."

Some time before 7:00 a.m. on Sunday, June 29, a Pulaski County Deputy Sheriff, William Patton, observed the brown Chevrolet parked along the side of the Hazel Hollow Road, near a point where a railroad trestle crosses the New River into the City of Radford. The trunk was open. He was not concerned at the time since fishermen frequently park there, near the riverbank. He returned after midnight, in the early morning hours of June 30. The car was still there. Its trunk was still open and the driver's window was down. He checked the registration by radio. He was told it belonged to a party named Hall in Coeburn, Virginia, and was not reported stolen. He took no further action.

When Gina failed to appear by Sunday evening, Dlana called two friends, Robert Lent and Craig Runyan, who went in search of the car. They found it early Monday afternoon where Deputy Patton had seen it, near the trestle on Hazel Hollow Road. Runyan stayed with the car while Lent went into Radford to summon the police. Runyan noticed that there were empty plastic glasses, matches, and other trash in the car and that the door pull was ripped off on the driver's side. The driver's window was open and the seat was pushed all the way back. Runyan thought this strange since Gina was "a little girl." Dlana testified that the car had been clean, vacuumed, and freshly waxed when Gina left with it on June 28.

By Tuesday, July 1, "lookouts" for Gina were being broadcast on the local radio stations. King, hearing her description and that of the car, went to the defendant's place of employment and advised him to report the matter promptly so "they wouldn't think [he] had anything to hide." The defendant asked him whom he had told or who knew about it. King told him that there had been discussion of the matter at the weight-lifting club where they "worked out." The defendant asked King to "go back down there and tell them not to say anything, just kinda talk it down, not broadcast it."

Also on July 1st, before the police were certain that Gina was dead, the defendant had a conversation with William Cranwell, a close friend. He asked if Cranwell's brother, an attorney, might represent him. Cranwell thought not. Cranwell testified the defendant then requested, "[I]f and when I talked to my brother to ask him if there was anything that they could do to him if they didn't find a body." As they walked outside to the defendant's car, the defendant repeated this request. Cranwell was certain that the defendant referred to "a body" or "the body," that it was not prompted by anything that Cranwell had said, and that the defendant was the only one who used the word.

On July 2, King discussed the case with the police and accompanied them back to the house on the lake. He found a broken ankle bracelet on the floor and gave it to the police. Dlana testified that the bracelet was similar to the one Gina wore. Mrs. Davis testified that she had never seen one like it in the house.

On July 5th, King had another discussion with the defendant. Referring to their conversation in the dark house on the lake, the defendant said, "[Y]ou did hear her, didn't you?" King answered that he had not heard Gina, and asked the defendant directly if he had killed her. The defendant replied, "Bill, I don't know anything about it ... We'll just have to wait and see." The defendant never directly denied the killing. King asked him what had taken place between him and Gina. King testified that

the defendant said, "a little fondling through the clothes, that's it." He said that he had gone swimming but that Gina had refused to join him.

King also testified that the defendant had abstained from alcohol for four years because he was "a little hyper" and was likely to get into fights if he had been drinking. He did not see him drink anything alcoholic on the night of June 28th.

When an investigator from the Radford police went over the Davis house carefully, minute bloodstains were found on the concrete driveway, on a walk in front of the glass doors facing the lake, on a light switch in the mid-level bathroom off the den, on the leg of a chair, on a pair of brown shoes, on a golf shoe, on a dust pan, on a mattock beside the refrigerator, and on the refrigerator door. The latter had been wiped nearly clean, but faint blood smears were visible, along with hairs and fibers. A hair was caught in a cleat of a golf shoe beside the refrigerator. There was a bloodstain on the inner refrigerator door gasket. A large bloodstain, about 18 inches in diameter, was found on the living room carpet just inside the glass doors. It had been partially cleaned up and was bleached out to a faint pinkish color. The police testified that these items would not have been apparent to a casual observer. Mrs. Davis testified that the house had been left very clean, and that there was no reason for the bloodstains to have been in the house before their departure.

Many volunteers joined in the search for Gina. A group of five friends from her home town, Coeburn, Virginia, discovered a blue towel in heavy undergrowth ten feet from the railroad tracks, near the trestle. The towel bore bloodstains, and contained fibers identical to the carpet in the Davis living room. It was identified by Mrs. Davis as identical to a towel previously unused and missing from her home. Also missing from the house on the lake were an old blue and white towel, a roll of paper towels, a can of Dow bathroom cleaner with a green plastic cap, and a large handmade quilt. Mrs. Davis later found the green plastic

cap by a trash can in the furnace room. She thought it strange for it to be there, and gave it to the police.

Sergeant Lovell of the Radford police found a shoe, later identified as one worn by Gina on June 28, on the Radford side of the river near the end of the trestle.

A group of high school students from Christiansburg found Mrs. Davis' blue and white striped towel in Radford between the New River Valley Shopping Plaza and the river. A short distance away they found all of the clothes Gina had worn on the night of the 28th, tied into a damp bundle and stained with blood. All of these items were turned over to the police.

On July 3, Sergeant Duffy of the Virginia State Police found the contents of Gina's purse concealed under a brush pile along the Hazel Hollow Road, ten feet off the highway. They were bunched together, not scattered. They included her checkbook, with its final entry dated June 28.

On July 1, Sergeant Hall of the Virginia State Police interviewed the defendant who said that he had driven Gina from the Marriott to the Davis house in her car and that as soon as they arrived she had called her sister. He said he overheard Gina tell Dlane that she was at the lake with a man named Steve, that she would not be out all night, and that she would be home in the morning. The defendant stated that they went to the dock where he went swimming but that Gina refused to join him; that they went to the house where they talked a few minutes, and that he "kissed her some." At this point, the defendant said that Gina told him she had once had a bad experience with a man and that she would have to know him very well before she could go to bed with him. He said that they then left the Davis house with Gina driving the Chevrolet. At his direction, he said, she drove him directly to his house in Radford where he got out, gave her directions to return to Dlane's apartment, and went inside to bed. Dlane testified that Gina had driven around Radford long enough to

know the area well, and would not have required any directions.

By July 2 the defendant had become a suspect. Sergeant Hall, after advising him of his rights, accused him of killing Gina. The defendant denied it. Hall repeated the accusation. The defendant was silent. Hall then advised the defendant to cooperate with him and told him to think of "how it [his cooperation] would affect the jury." The defendant said, "I'll think about it."¹

Forensic scientists who qualified as experts in the comparison of hairs and fibers and in the biochemical analysis of bloodstains were furnished with the exhibits in the case, with known head and pubic hairs from the defendant, with head hairs taken from Gina's curlers, and with the recorded blood types of Gina and the defendant. All of the bloodstains taken from the Davis house which were capable of identification were found to be human blood, type "O." These included the stains found in the carpet, light switches, shoes, dust pan, and mattock. The last three items were spattered by tiny droplets, unlike the large drops which would fall from a cut finger, bleeding nose, or similar accidental injury. The cleat of the golf shoe contained a Caucasian pubic hair, unlike that of the defendant. No such hairs from Gina were available for comparison. However, imbedded in the blood smears on the refrigerator door, themselves too attenuated for analysis, were five head hairs identical to Gina's. The mat from the trunk of the Chevrolet contained type "O" bloodstains, head hairs identical to Gina's, and pubic hairs unlike the defendant's.

The blue towel found in the woods was stained with type "O" human blood, contained six head hairs identical to Gina's, two

¹
Applying Rule 5:21, we do not notice defendant's argument that the officer's testimony was inadmissible.

pubic hairs unlike the defendant's, and many synthetic fibers identical to those in the living room carpet in the Davis house. The green plastic cap from the can of Dow cleaner contained a hair identical to Gina's.

Gina's clothes had been exposed to the weather until they were found on July 19. They were found to be stained with blood but by that time it was impossible to determine its origin or type. Her jacket had bloodstains on the right breast and in the shoulder blade area in the back, spreading across the right side. The trousers also contained bloodstains, two head hairs identical to Gina's, and one head hair identical to those of the defendant.

Gina, as shown by her hospital records, had type "O" blood. The defendant has type "A" blood.

Synthetic fibers similar to those of the carpet in the Davis house were found in the trunk of the Chevrolet, on the refrigerator door, the blue towel, and Gina's clothing, including her panties.

John Preston, a retired Pennsylvania State Trooper, qualified as an expert in the training, handling, and "reading" of tracking dogs. The court required substantial foundation evidence outside the jury's presence before deciding to admit his testimony. Preston testified that he had performed tracking services and qualified as an expert witness in seventeen states, including Virginia, and in Puerto Rico. In this case, he worked with a male German Shepherd which had been used in over 150 criminal cases throughout the United States. The dog had successfully followed trails as old as twenty-one days. He had, in February 1978, followed an elderly man, missing for nine hours, through the streets of a town for seven blocks, finding him unconscious, despite three feet of snow. He testified that the dog's ability to distinguish human scent gradually diminished with the passage of time but that rain had no appreciable influence, and that wet conditions seemed actually to intensify the scent.

Preston and the dog arrived at Radford about midnight on July 10. Neither he nor the dog was familiar with the area and he was not told of the existence of a suspect. Sergeant Duffy took them to the place on Hazel Hollow Road where the Chevrolet had been found abandoned and the dog was "scented" on underwear taken from the defendant. The dog began a "casting search." Then, within 100 yards, he indicated that he had picked up the scent he was seeking. He left the road, ascended a path up the grade to the trestle and crossed the New River into Radford, following a walkway on the right side of the tracks. He followed a circuitous route through Radford, going to an area under Memorial Bridge on Route 11, retracing his steps along the tracks to a railroad switching area, going around a box factory, following a gravel path to a main thoroughfare, passing through the New River Valley Shopping Plaza, part of a twenty-four hour car wash, through other streets, across intersections, through a private lot and finally turned up a walkway to the front porch of a house. The dog walked up to the front door and stopped. At this point, Sergeant Duffy informed Preston that the dog had come to the front door of the defendant's residence, and that the defendant was accused of Gina Hall's murder.

Gina's shoe, the two towels, and the bundle of her clothing had all been recovered at different previous times from several different places. The roundabout trail followed by the dog led the trackers closely past each of these locations. Preston testified that the dog's behavior indicated three lengthy "pauses" where the person tracked had lingered on the trail. The first of these was one-third of the way across the trestle over the river, the second was under the Memorial Bridge, and the third was in the railroad switching area.

On the following day, Preston spread out six blue towels of similar appearance in the Radford High School auditorium. Before the dog was admitted to the room he was again "scented" on the defendant's underwear. The dog ran immediately to the towel

which had been found in the woods and refused to leave it until ordered to do so. Preston testified that this meant that the towel, in addition to any blood and fibers it contained, also had the same scent as that on the underwear.

On July 12, when the defendant was at the Radford Police Station in Captain Williams' office, Preston took the dog, which had not been inside, into the parking lot which contained numerous vehicles. After the dog had been "scented" on the same blue towel which had been found in the woods, he made a "casting search" through the parking lot until he came to the driver's door handle of the defendant's parked car. After pausing there, he "tracked" into the police station, coming directly to the door of the office in which the defendant was seated. When informed of the dog's performance on these three occasions, the defendant put his head down on his arms and said, "That's a damn good dog." He repeated this remark three times.

CORPUS DELICTI

The court instructed the jury that the Commonwealth must first prove that Gina was dead and that her death was caused by criminal violence. The instruction told the jury that these elements might be proved "either by direct evidence or by proof so strong as to produce the full assurance of moral certainty." Defendant agrees that this instruction correctly states the law, but argues that the evidence was insufficient to warrant the jury's finding the existence of the corpus delicti.

Sir Matthew Hale wrote, "I would never convict any person of murder or manslaughter, unless the fact were proven to be done, or at least the body found dead ...", 2 M. Hale, Pleas of the Crown 290 (1736). Many later writers have misconstrued this dictum to mean that there can be no conviction unless the prosecution produces the body of the victim. This may account for the familiar layman's misconception which equates "corpus delicti" with the body of the victim. This is not the law of England today, and probably never was. Regina v. Onufrejczyk, [1955] 1 Q.B. 388.

Conceding that the corpus delicti may be proved circumstantially, defendant argues that in the absence of the body, such proof can only be held sufficient where: (1) there is an eyewitness to the killing, (2) some identifiable remains of the victim are found, or (3) the accused confesses the crime or makes admissions which corroborate the circumstantial proof of violent death.

We are not persuaded that any such limitations should be imposed. When the evidence is circumstantial, the standard of proof is stringent. The jury was properly so instructed in this case. Such a requirement of strictness sufficiently protects the defendant from guesswork and speculation. It is unnecessary to create artificial rules as to the species of circumstantial evidence which the jury may consider. Circumstantial evidence comes in infinite variety. Because it is not subject to the human frailties of perception, memory, and truthful recital, it is often more reliable than the accounts of eyewitnesses. When convincing, it is entitled to the same weight as direct testimony. Stamper v. Commonwealth, 220 Va. 260, 272, 257 S.E.2d 808, 817 (1979); Turner v. Commonwealth, 218 Va. 141, 145-46, 235 S.E.2d 357, 360 (1977).

As Lord Goddard points out in Regina v. Onufrejczyk, supra at 396, there is less reason for strictness in the proof of corpus delicti now than in earlier times. In Sir Matthew Hale's day, a person might disappear beyond all possibility of communication by going overseas or by embarking in a ship. It would have been most dangerous to infer death merely from his disappearance. Worldwide communication and travel today are so facile that a jury may properly take into account the unlikelihood that an absent person, in view of his health, habits, disposition, and personal relationships would voluntarily flee, "go underground," and remain out of touch with family and friends. The unlikelihood of such a voluntary disappearance is circumstantial evidence entitled to weight equal to that of bloodstains and concealment of evidence.

Further, the restrictions on proof which the defendant advo-

cates would place a premium on stealthy murder and successful concealment of the victim's body. Among the numerous atrocities of which Charles Manson was convicted in California in the 1970's was the murder of Shea, whose body was never found. The California Court of Appeal remarked:

The fact that Shea's body was never recovered would justify an inference by the jury that death was caused by a criminal agency. It is highly unlikely that a person who dies from natural causes will successfully dispose of his own body. Although such a result may be a theoretical possibility, it is contrary to the normal course of human affairs.

The fact that a murderer may successfully dispose of the body of the victim does not entitle him to an acquittal. That is one form of success for which society has no reward.

People v. Manson, 71 Cal. App.3d 1, 42, 139 Cal. Rptr. 275, 298 (1977), cert. denied, 435 U.S. 953 (1978).

Courts in other jurisdictions, confronted with those infrequent homicide cases in which the victims' bodies were never found, have reached similar conclusions. See, e.g., People v. Scott, 176 Cal. App.2d 458, 1 Cal. Rptr. 600 (1959) appeal dismissed and cert. denied, 364 U.S. 471 (1960); People v. Cullen, 37 Cal. 2d 614, 624, 234 P.2d 1, 16 (1951); State v. Pyle, 216 Kan. 423, 532 P.2d 1309 (1975); Commonwealth v. Burns, 409 Pa. 619, 187 A.2d 552 (1963); Kugadt v. State, 38 Tex. Crim. 681, 44 S.W. 989 (1898); Regina v. Onufrejczyk, supra; The King v. Horry, [1952] N.Z.L.R. 111.

In homicide cases, the corpus delicti must consist of proof (1) of the victim's death, and (2) that it resulted from the criminal act or agency of another. Clark v. Commonwealth, 220 Va. 201, 257 S.E.2d 784 (1979). Although this is the first such case to come to this Court in which the victim's body was not found, we have long held that the corpus delicti may be proven by circumstantial evidence. Lane v. Commonwealth, 219 Va. 509, 514, 248 S.E.2d 781, 783 (1978); Bowie v. Commonwealth, 184 Va. 381, 35 S.E.2d 345 (1945); Cochran v. Commonwealth, 122 Va. 801, 94 S.E. 329 (1917).

We think the evidence was sufficient to warrant the jury in

finding, to the full assurance of moral certainty, that Gina Hall was dead as the result of the criminal act of another person. The jury was entitled to take into account, in this connection, her sudden disappearance, her character and personal relationships, her physical and mental health, the evidence of a violent struggle at the house on Claytor Lake, her hidden, blood-soaked clothing, and the defendant's incriminating statements - particularly his reference to "the body" before it was generally thought she was dead.

EVIDENCE OF VICTIM'S CHARACTER

The defendant assigns error to the trial court's admission of the abundant evidence, summarized in the first part of this opinion, concerning Gina's character, traits, habits, and relationships. It is true that the Commonwealth may not ordinarily, in its case in chief, offer evidence of the good character and peaceable nature of the deceased. Thomason v. Commonwealth, 178 Va. 489, 17 S.E.2d 374 (1941). Here, however, the Commonwealth had the burden of proving by circumstantial evidence that Gina was dead as a result of the criminal act of another. The evidence must be such as to foreclose every reasonable hypothesis of innocence, including suicide, natural death, accidental death, justifiable or excusable homicide, or continuing life in absentia. The evidence objected to was relevant to negate these theories. It showed the unlikelihood that Gina would take her own life, flee, or fall victim to accidental death because of some dangerous habit or practice.

Every fact, however remote or insignificant, that tends to establish the probability or improbability of a fact in issue, is admissible. Stamper v. Commonwealth, supra, at 269, 257 S.E.2d at 815. The admission of similar evidence for the same purpose was approved in California in People v. Scott, supra, in Kansas in State v. Pyle, supra, and in Pennsylvania in Commonwealth v. Burns, supra. We find no error in its admission as part of the circumstantial evidence tending to prove the corpus delicti.

PREMEDITATION AND DELIBERATION

The defendant contends that the evidence was insufficient to support the jury's finding of the premeditation and deliberation requisite for a conviction of first degree murder. The jury was correctly instructed as to the elements of first degree and second degree murder, and the terms "willful, deliberate, and premeditated" and "malice," as used in the instructions, were properly defined. The defense made no objection to the instructions on the degrees of murder. Neither party requested an instruction as to the lesser included offense of voluntary manslaughter, and none was given. In oral argument on appeal, the defendant conceded that if the proof of corpus delicti were sufficient, there would have been evidence sufficient to support a verdict finding the defendant guilty of voluntary manslaughter.

In accordance with our decisions, the jury was instructed that "malice is implied by law from any willful, deliberate and cruel act against another, however sudden." The spattering of tiny droplets of blood through two rooms, the bloodstained clothing, the broken ankle bracelet, the large bloodstain on the carpet, and the disparity of size and strength between Gina and the defendant are all circumstances from which the jury could properly infer that she was subjected to a savage beating, resulting in death. This would readily support a finding of the malice requisite for a conviction of second degree murder.

The defendant argues correctly that premeditation and deliberation, which the Commonwealth must prove beyond a reasonable doubt to obtain a first degree murder conviction, require the adoption of a specific intent to kill, which is something more than malice. Smith v. Commonwealth, 220 Va. 696, 261 S.E.2d 550 (1980). "The intent to kill must come into existence at some time before the killing; it need not exist for any particular length of time." Id. at 700, 261 S.E.2d at 553. "[I]t is necessary that the killing be done on purpose and not by accident or without design...." McDaniel v. Commonwealth, 77 Va. 281, 284 (1883).

"The exact state of the defendant's mind at the time of the killing is the crucial factor in determining intent. 'It is the will and purpose to kill, not necessarily the interval of time, which determines the grade of the offense.'" Smith, supra, at 700-01, 261 S.E.2d at 553. "A design to kill may be formed only a moment before the fatal act is committed, provided the accused had time to think and did intend to kill." Giarratano v. Commonwealth, 220 Va. 1064, 1074, 266 S.E.2d 94, 100 (1980).

The jury was justified in finding from the evidence that the defendant, knowing that there would be no one else at the Davis home on the night of June 28-29, persuaded Gina to go there with him by leading her to believe others would be present; that his original intention was to have sexual intercourse with her, but that she rebuffed his advances; that he attempted to take her by force, removing her outer clothing and breaking her ankle bracelet in the process; that the struggle became so violent that he realized she was a potential witness against him on a charge of sexual assault; that he thereupon resolved to silence her permanently, to hide her body, to dispose of the evidence, and to escape detection.

The question whether premeditation and deliberation exist, so as to elevate a homicide to first degree murder, is in the province of the jury. Hodges v. Commonwealth, 213 Va. 316, 191 S.E.2d 794 (1972). In deciding it, the jury may properly consider the brutality of the attack, and whether more than one blow was struck, Jackson v. Virginia, 443 U.S. 307, 325 (1979); the disparity in size and strength between the defendant and the victim, State v. LaChance, 524 S.W.2d 933 (Tenn. 1975); the concealment of the victim's body, State v. Austin, 52 Ohio App.2d 59, 368 N.E.2d 59 (1976); and the defendant's lack of remorse and efforts to avoid detection, Smith v. Commonwealth, supra. While motive is not an essential element of the crime, it is relevant and often most persuasive upon the question of the actor's intent. Smith, Id., Ward v. Commonwealth, 205 Va. 564, 138 S.E.2d 293 (1964).

While none of these factors might be sufficient standing alone, in combination they are more than enough to support the jury's finding that the killing of Gina Hall was not only malicious, but also willful, deliberate, and premeditated. All of the defendant's conduct after Gina's disappearance is consistent with the continuing execution of a scheme, adopted before her death, to dispose of her furtively, permanently, and with impunity.

DOG TRACKING

The defendant assigns error to the admission of the dog-tracking evidence. Although a question of first impression in Virginia,² many courts elsewhere have considered the admissibility of such evidence, beginning with Hodge v. State, 98 Ala. 10, 13 So. 385 (1893). An excellent summary of the development of this area of the law was written by Judge Thompson, who calls it "[a] very colorful page of American folklore," in Terrell v. State, 3 Md. App. 340, 344, 239 A.2d 128, 130 (1967). See also Annot., 18 A.L.R.3d 1221 (1968).

Although a few jurisdictions exclude such evidence generally, and some require proof that the dog is a "purebred bloodhound," a substantial majority of jurisdictions admit such evidence after the trial judge is satisfied that a proper foundation has been laid. Thereafter, objections on such grounds as the staleness and contamination of the trail due to lapse of time, precipitation or other traffic, as well as matters such as the relative inexperience of dog or handler, go only to the weight which the jury should give to the result. See, e.g., State v. Harris, 25 Or. App. 71, 547 P.2d 1394 (1976).

We hold that dog-tracking evidence is admissible in a criminal case after a proper foundation has been laid to show that the handler was qualified to work with the dog and to interpret its responses, that the dog was a sufficiently trained and proven

²
No error was assigned to the admission of evidence of this kind in Noell v. Angle, 217 Va. 656, 231 S.E.2d 330 (1977).

tracker of human scent, that the dog was placed on the trail where circumstances indicated that the guilty party had been, and that the trail had not become so stale or contaminated as to be beyond the dog's tracking capabilities.

John Preston's testimony furnished a strong foundation for the admission of the evidence. His qualifications and the dog's training and abilities were fully developed. The dog was placed on the track at a point where other evidence showed that the perpetrator had been. The trail was eleven days old and had been subjected to considerable rainfall, but the foundation testimony showed that the dog had successfully followed older trails and had succeeded despite far worse atmospheric conditions. In the actual event, the dog unerringly followed the trail past the various points where the victim's clothing and the bloodstained towel had been hidden, and came to the defendant's front door. The factors of staleness and contamination of the trail were properly submitted to the jury's consideration in connection with the weight to be given to Preston's testimony. There was no error in the admission of the evidence.

ADDITIONAL ASSIGNMENTS OF ERROR

The defendant assigns three additional errors:

(1) In the cross-examination of Captain Williams, by defense counsel, the following testimony was given:

Q. "You went down there and talked to him [the defendant] before you went out to the cabin?"

A. "Yes, sir."

* * * * *

Q. "And what discussions did you have at that time?"

A. "In reference to taking a polygraph."

Q. "What happened after that, did you see him anymore that day?"

A. "I don't recall seeing him anymore until later that night."

After Williams was excused and after two more witnesses had testified and were excused, defense counsel moved for a mistrial because of the mention of the word "polygraph." The trial judge concluded that the answer had been inadvertently elicited by defense counsel and that in the context of which it was used, without definition or elaboration, it was harmless. We agree.

(2) On the fourth day of trial the defendant wrote a letter to the judge requesting that his counsel be relieved, and moving for a mistrial and the appointment of new counsel. The court denied the motion, noting that defense counsel had been giving him "an energetic and effective representation." We agree.

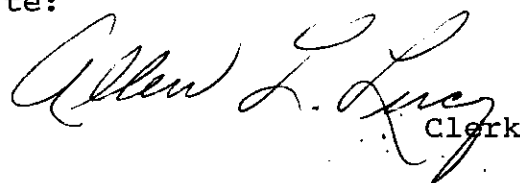
(3) The court denied a pre-trial motion for change of venue based on extensive local publicity. The court ruled that an effort would be made to impanel an unbiased Pulaski County jury, but if twenty veniremen free from exception could not be found, the court would reconsider the motion for change of venue. After a lengthy and careful voir dire, a panel of twenty was drawn which was free from exception. The motion was thus rendered moot and was not renewed.

We find no reversible error in the record and will affirm the judgment.

Affirmed.

A Copy,

Teste:


Clerk

Present: All the Justices

STEPHEN MATTESON EPPERLY

OPINION BY JUSTICE CHARLES S. RUSSELL
September 9, 1982

-v- Record No. 810626

COMMONWEALTH OF VIRGINIA

FROM THE CIRCUIT COURT OF PULASKI COUNTY
R. WILLIAM ARTHUR, JUDGE

The defendant, Stephen Epperly, was tried by a jury, convicted of the first degree murder of Gina Hall, and sentenced to life imprisonment. The victim's body was never found. The evidence was entirely circumstantial, both as to proof of the corpus delicti and as to the element of premeditation. The defendant's appeal raises questions concerning the sufficiency of the evidence to prove these elements, the admission of evidence concerning the victim's good character, the admission of evidence of experiments conducted with a tracking dog, and certain additional assignments of error. We affirm the conviction.

The facts are undisputed. After the court denied his motion to strike the Commonwealth's evidence, the defendant presented no evidence and rested. We review the evidence in the light most favorable to the Commonwealth.

THE FACTS

Gina Hall disappeared the night of June 28, 1980. She was last seen leaving the Marriott Hotel in Blacksburg with the defendant. She was last heard from that same night when she called her sister and said she was at a lake house with the defendant.

In June 1980, Gina Hall, eighteen, was a freshman at Radford University. She lived in Radford with her older sister, Dlana, a graduate student, while both took summer courses. A number of witnesses testified to Gina's excellent reputation. She was described as "very beautiful," well dressed, pleasant, soft-spoken, and popular with her peers as well as with older people. She had close family ties. She particularly loved and respected her father, who said she was "a very, very good child." Gina was

athletic and loved dancing. She was a church-goer, used alcohol very sparingly, and did not use drugs or tobacco. She had no serious psychological or physical problems and had never been away from home without permission. She was described as "a very happy person - never depressed."

Nevertheless, Gina was modest and self-conscious in her dress and in her physical relationships. This modesty was the result of an accident she had in early childhood. When Gina was two years old her pajamas caught fire from a gas stove and she was badly burned. She had many skin grafts at the University of Virginia Hospital and had permanent scars on her right side, abdomen, upper right arm, and right thigh. Gina dressed modestly because she was self-conscious about her scars. She covered herself with towels at the beach until she actually entered the surf. Dlana testified with reference to these scars, "She could not have handled the emotional stress of having a [physical] relationship with somebody and she never put herself in that situation." When Gina was ten, she had to return to the hospital for additional abdominal skin grafts because of the grafted skin's inability to stretch as she grew. She told her stepmother and sister that she was afraid that if she ever became pregnant her skin would be unable to stretch any further. Dlana testified that most of Gina's dates were "just friends," usually boys with whom she played tennis. She never "dated any slouch."

Gina was about five feet tall and weighed about 107 pounds. When she drove Dlana's car she had to move the seat so far forward that Dlana, who was four inches taller, could not get behind the wheel unless it was moved back again. The defendant is about six feet tall.

Both girls had been taking summer mid-term exams during the week of June 22-28, 1980. Gina finished her last exam on Saturday, June 28. She was in a "great mood" and wanted to go dancing at the Marriott in Blacksburg. Dlana was too tired to go, but

lent Gina her brown Chevrolet for the evening. Gina left about 10:00 p.m., wearing a white jacket and white high-waisted long trousers over a purple body suit with matching shoes. She wore an ankle bracelet of gold interlocked hearts. This was the only time that Dlane recalled in which Gina went out socially by herself. Dlane did not know whether Gina expected to meet anyone she knew at the Marriott. Dlane never saw her again.

Dlane had been asleep for some time when she was awakened by a call from Gina whose voice sounded "very uneasy [or] out of character --- very nervous." The court excluded the content of this conversation on the ground of hearsay, although the jury later learned the defendant's version of it through the defendant's statement to the police, which was admitted. The conversation lasted about two minutes. Dlane estimated the time at about 1:00 a.m. Gina has not been heard from since.

Bill King, twenty-seven, was a very close friend of the defendant, having known him since both were small children. King and the defendant planned to go to the Blacksburg Marriott for a "night out" on Saturday, June 28. King picked the defendant up in King's car about 10:00 p.m. They drove first to the home of King's mother and stepfather, Mr. and Mrs. Ronald Davis, on Claytor Lake, to see that it was secure. The Davises were away on vacation and had asked King to check the house occasionally since some vandalism had been occurring in the area. Finding the house in good order, King and the defendant drove to Blacksburg. They arrived at the Marriott about 11:00 p.m. and joined three friends, one of whom knew Gina.

Gina arrived at the Marriott at the same time. Although neither King nor the defendant knew her, the defendant danced with her four or five times. Later he asked King if he could borrow his car and the key to the house on the lake. King told him he was welcome to use the house, but that he couldn't let him have the car. The defendant asked Gina if they could take her car and she agreed. King testified, "She seemed to be confused as to what car was going and exactly who was going. I think when she came

out she thought maybe I" Gina and the defendant left in the Chevrolet.

Later that night Robin Robinson and Bill King decided to go to the lake house for a swim. When they arrived at the house at 4:00 a.m., they observed that the brown Chevrolet was parked in the driveway, and that there were no lights on in the house. Wishing to be discreet, King entered the house from the upper level, slammed the doors, and turned on the kitchen light. The defendant was in the den on a lower level. He called up the stairs, "Bill, is that you?" King did not see him, but called back, "I've got somebody with me and we're going down to the dock and go swimming." the defendant replied, "Well, we've got to leave." King said, "Well, that's o.k., you don't have to leave. Hang around We're just going swimming." The defendant said, "[S]he's got to be getting back." Robin looked down the stairs and saw the defendant, in trousers but shirtless, wiping his shoulders with a towel. Neither she nor King heard or saw any sign of Gina.

King and Robin went to the dock, where King remained while Robin went swimming for 15 or 20 minutes. While they were there, the defendant came out to the glass doors facing the lake, flashed the outside lights momentarily and called, "Bill, I'll see you later; we're leaving." There were no lights on indoors and neither King nor Robin heard or saw anyone else. They did not hear the car start and it was out of their view.

About five minutes later, King and Robin re-entered the house through the glass doors. Just inside, King, who was barefooted, stepped in a wet spot in the carpet. King pulled some cushions onto the floor, which he and Robin lay upon. Again, he noticed that his "foot was in something wet." He mentioned it to Robin; he thought it was water, and assumed that the defendant and Gina had been swimming and might have left wet clothing or towels there.

King drove Robin home about 10:00 a.m., Sunday, June 29. He picked up his four-year-old son, who had been visiting his grand-

mother, and returned to the Davis house on the lake about noon to take the child swimming. Shortly thereafter, the defendant arrived, alone, in his own car, followed by two other friends. King took the boy swimming while the others pitched horseshoes. The defendant was always welcome to use the house and was fully familiar with it. Nevertheless, he came down to the dock to ask King if he might go inside to get a drink. King told him to help himself. He thought the defendant remained inside an unusually long time and when he reappeared asked him, "Did you fall in a hole or something up there?" The defendant answered, "Well, I couldn't find an opener."

Some time before 7:00 a.m. on Sunday, June 29, a Pulaski County Deputy Sheriff, William Patton, observed the brown Chevrolet parked along the side of the Hazel Hollow Road, near a point where a railroad trestle crosses the New River into the City of Radford. The trunk was open. He was not concerned at the time since fishermen frequently park there, near the riverbank. He returned after midnight, in the early morning hours of June 30. The car was still there. Its trunk was still open and the driver's window was down. He checked the registration by radio. He was told it belonged to a party named Hall in Coeburn, Virginia, and was not reported stolen. He took no further action.

When Gina failed to appear by Sunday evening, Dlana called two friends, Robert Lent and Craig Runyan, who went in search of the car. They found it early Monday afternoon where Deputy Patton had seen it, near the trestle on Hazel Hollow Road. Runyan stayed with the car while Lent went into Radford to summon the police. Runyan noticed that there were empty plastic glasses, matches, and other trash in the car and that the door pull was ripped off on the driver's side. The driver's window was open and the seat was pushed all the way back. Runyan thought this strange since Gina was "a little girl." Dlana testified that the car had been clean, vacuumed, and freshly waxed when Gina left with it on June 28.

By Tuesday, July 1, "lookouts" for Gina were being broadcast on the local radio stations. King, hearing her description and that of the car, went to the defendant's place of employment and advised him to report the matter promptly so "they wouldn't think [he] had anything to hide." The defendant asked him whom he had told or who knew about it. King told him that there had been discussion of the matter at the weight-lifting club where they "worked out." The defendant asked King to "go back down there and tell them not to say anything, just kinda talk it down, not broadcast it."

Also on July 1st, before the police were certain that Gina was dead, the defendant had a conversation with William Cranwell, a close friend. He asked if Cranwell's brother, an attorney, might represent him. Cranwell thought not. Cranwell testified the defendant then requested, "[I]f and when I talked to my brother to ask him if there was anything that they could do to him if they didn't find a body." As they walked outside to the defendant's car, the defendant repeated this request. Cranwell was certain that the defendant referred to "a body" or "the body," that it was not prompted by anything that Cranwell had said, and that the defendant was the only one who used the word.

On July 2, King discussed the case with the police and accompanied them back to the house on the lake. He found a broken ankle bracelet on the floor and gave it to the police. Dlana testified that the bracelet was similar to the one Gina wore. Mrs. Davis testified that she had never seen one like it in the house.

On July 5th, King had another discussion with the defendant. Referring to their conversation in the dark house on the lake, the defendant said, "[Y]ou did hear her, didn't you?" King answered that he had not heard Gina, and asked the defendant directly if he had killed her. The defendant replied, "Bill, I don't know anything about it ... We'll just have to wait and see." The defendant never directly denied the killing. King asked him what had taken place between him and Gina. King testified that

the defendant said, "a little fondling through the clothes, that's it." He said that he had gone swimming but that Gina had refused to join him.

King also testified that the defendant had abstained from alcohol for four years because he was "a little hyper" and was likely to get into fights if he had been drinking. He did not see him drink anything alcoholic on the night of June 28th.

When an investigator from the Radford police went over the Davis house carefully, minute bloodstains were found on the concrete driveway, on a walk in front of the glass doors facing the lake, on a light switch in the mid-level bathroom off the den, on the leg of a chair, on a pair of brown shoes, on a golf shoe, on a dust pan, on a mattock beside the refrigerator, and on the refrigerator door. The latter had been wiped nearly clean, but faint blood smears were visible, along with hairs and fibers. A hair was caught in a cleat of a golf shoe beside the refrigerator. There was a bloodstain on the inner refrigerator door gasket. A large bloodstain, about 18 inches in diameter, was found on the living room carpet just inside the glass doors. It had been partially cleaned up and was bleached out to a faint pinkish color. The police testified that these items would not have been apparent to a casual observer. Mrs. Davis testified that the house had been left very clean, and that there was no reason for the bloodstains to have been in the house before their departure.

Many volunteers joined in the search for Gina. A group of five friends from her home town, Coeburn, Virginia, discovered a blue towel in heavy undergrowth ten feet from the railroad tracks, near the trestle. The towel bore bloodstains, and contained fibers identical to the carpet in the Davis living room. It was identified by Mrs. Davis as identical to a towel previously unused and missing from her home. Also missing from the house on the lake were an old blue and white towel, a roll of paper towels, a can of Dow bathroom cleaner with a green plastic cap, and a large handmade quilt. Mrs. Davis later found the green plastic

cap by a trash can in the furnace room. She thought it strange for it to be there, and gave it to the police.

Sergeant Lovell of the Radford police found a shoe, later identified as one worn by Gina on June 28, on the Radford side of the river near the end of the trestle.

A group of high school students from Christiansburg found Mrs. Davis' blue and white striped towel in Radford between the New River Valley Shopping Plaza and the river. A short distance away they found all of the clothes Gina had worn on the night of the 28th, tied into a damp bundle and stained with blood. All of these items were turned over to the police.

On July 3, Sergeant Duffy of the Virginia State Police found the contents of Gina's purse concealed under a brush pile along the Hazel Hollow Road, ten feet off the highway. They were bunched together, not scattered. They included her checkbook, with its final entry dated June 28.

On July 1, Sergeant Hall of the Virginia State Police interviewed the defendant who said that he had driven Gina from the Marriott to the Davis house in her car and that as soon as they arrived she had called her sister. He said he overheard Gina tell Dlane that she was at the lake with a man named Steve, that she would not be out all night, and that she would be home in the morning. The defendant stated that they went to the dock where he went swimming but that Gina refused to join him; that they went to the house where they talked a few minutes, and that he "kissed her some." At this point, the defendant said that Gina told him she had once had a bad experience with a man and that she would have to know him very well before she could go to bed with him. He said that they then left the Davis house with Gina driving the Chevrolet. At his direction, he said, she drove him directly to his house in Radford where he got out, gave her directions to return to Dlane's apartment, and went inside to bed. Dlane testified that Gina had driven around Radford long enough to

know the area well, and would not have required any directions.

By July 2 the defendant had become a suspect. Sergeant Hall, after advising him of his rights, accused him of killing Gina. The defendant denied it. Hall repeated the accusation. The defendant was silent. Hall then advised the defendant to cooperate with him and told him to think of "how it [his cooperation] would affect the jury." The defendant said, "I'll think about it."¹

Forensic scientists who qualified as experts in the comparison of hairs and fibers and in the biochemical analysis of bloodstains were furnished with the exhibits in the case, with known head and pubic hairs from the defendant, with head hairs taken from Gina's curlers, and with the recorded blood types of Gina and the defendant. All of the bloodstains taken from the Davis house which were capable of identification were found to be human blood, type "O." These included the stains found in the carpet, light switches, shoes, dust pan, and mattock. The last three items were spattered by tiny droplets, unlike the large drops which would fall from a cut finger, bleeding nose, or similar accidental injury. The cleat of the golf shoe contained a Caucasian pubic hair, unlike that of the defendant. No such hairs from Gina were available for comparison. However, imbedded in the blood smears on the refrigerator door, themselves too attenuated for analysis, were five head hairs identical to Gina's. The mat from the trunk of the Chevrolet contained type "O" bloodstains, head hairs identical to Gina's, and pubic hairs unlike the defendant's.

The blue towel found in the woods was stained with type "O" human blood, contained six head hairs identical to Gina's, two

¹ Applying Rule 5:21, we do not notice defendant's argument that the officer's testimony was inadmissible.

pubic hairs unlike the defendant's, and many synthetic fibers identical to those in the living room carpet in the Davis house. The green plastic cap from the can of Dow cleaner contained a hair identical to Gina's.

Gina's clothes had been exposed to the weather until they were found on July 19. They were found to be stained with blood but by that time it was impossible to determine its origin or type. Her jacket had bloodstains on the right breast and in the shoulder blade area in the back, spreading across the right side. The trousers also contained bloodstains, two head hairs identical to Gina's, and one head hair identical to those of the defendant.

Gina, as shown by her hospital records, had type "O" blood. The defendant has type "A" blood.

Synthetic fibers similar to those of the carpet in the Davis house were found in the trunk of the Chevrolet, on the refrigerator door, the blue towel, and Gina's clothing, including her panties.

John Preston, a retired Pennsylvania State Trooper, qualified as an expert in the training, handling, and "reading" of tracking dogs. The court required substantial foundation evidence outside the jury's presence before deciding to admit his testimony. Preston testified that he had performed tracking services and qualified as an expert witness in seventeen states, including Virginia, and in Puerto Rico. In this case, he worked with a male German Shepherd which had been used in over 150 criminal cases throughout the United States. The dog had successfully followed trails as old as twenty-one days. He had, in February 1978, followed an elderly man, missing for nine hours, through the streets of a town for seven blocks, finding him unconscious, despite three feet of snow. He testified that the dog's ability to distinguish human scent gradually diminished with the passage of time but that rain had no appreciable influence, and that wet conditions seemed actually to intensify the scent.

Preston and the dog arrived at Radford about midnight on July 10. Neither he nor the dog was familiar with the area and he was not told of the existence of a suspect. Sergeant Duffy took them to the place on Hazel Hollow Road where the Chevrolet had been found abandoned and the dog was "scented" on underwear taken from the defendant. The dog began a "casting search." Then, within 100 yards, he indicated that he had picked up the scent he was seeking. He left the road, ascended a path up the grade to the trestle and crossed the New River into Radford, following a walkway on the right side of the tracks. He followed a circuitous route through Radford, going to an area under Memorial Bridge on Route 11, retracing his steps along the tracks to a railroad switching area, going around a box factory, following a gravel path to a main thoroughfare, passing through the New River Valley Shopping Plaza, part of a twenty-four hour car wash, through other streets, across intersections, through a private lot and finally turned up a walkway to the front porch of a house. The dog walked up to the front door and stopped. At this point, Sergeant Duffy informed Preston that the dog had come to the front door of the defendant's residence, and that the defendant was accused of Gina Hall's murder.

Gina's shoe, the two towels, and the bundle of her clothing had all been recovered at different previous times from several different places. The roundabout trail followed by the dog led the trackers closely past each of these locations. Preston testified that the dog's behavior indicated three lengthy "pauses" where the person tracked had lingered on the trail. The first of these was one-third of the way across the trestle over the river, the second was under the Memorial Bridge, and the third was in the railroad switching area.

On the following day, Preston spread out six blue towels of similar appearance in the Radford High School auditorium. Before the dog was admitted to the room he was again "scented" on the defendant's underwear. The dog ran immediately to the towel

which had been found in the woods and refused to leave it until ordered to do so. Preston testified that this meant that the towel, in addition to any blood and fibers it contained, also had the same scent as that on the underwear.

On July 12, when the defendant was at the Radford Police Station in Captain Williams' office, Preston took the dog, which had not been inside, into the parking lot which contained numerous vehicles. After the dog had been "scented" on the same blue towel which had been found in the woods, he made a "casting search" through the parking lot until he came to the driver's door handle of the defendant's parked car. After pausing there, he "tracked" into the police station, coming directly to the door of the office in which the defendant was seated. When informed of the dog's performance on these three occasions, the defendant put his head down on his arms and said, "That's a damn good dog." He repeated this remark three times.

CORPUS DELICTI

The court instructed the jury that the Commonwealth must first prove that Gina was dead and that her death was caused by criminal violence. The instruction told the jury that these elements might be proved "either by direct evidence or by proof so strong as to produce the full assurance of moral certainty." Defendant agrees that this instruction correctly states the law, but argues that the evidence was insufficient to warrant the jury's finding the existence of the corpus delicti.

Sir Matthew Hale wrote, "I would never convict any person of murder or manslaughter, unless the fact were proven to be done, or at least the body found dead ...", 2 M. Hale, Pleas of the Crown 290 (1736). Many later writers have misconstrued this dictum to mean that there can be no conviction unless the prosecution produces the body of the victim. This may account for the familiar layman's misconception which equates "corpus delicti" with the body of the victim. This is not the law of England today, and probably never was. Regina v. Onufrejczyk, [1955] 1 Q.B. 388.

Conceding that the corpus delicti may be proved circumstantially, defendant argues that in the absence of the body, such proof can only be held sufficient where: (1) there is an eyewitness to the killing, (2) some identifiable remains of the victim are found, or (3) the accused confesses the crime or makes admissions which corroborate the circumstantial proof of violent death.

We are not persuaded that any such limitations should be imposed. When the evidence is circumstantial, the standard of proof is stringent. The jury was properly so instructed in this case. Such a requirement of strictness sufficiently protects the defendant from guesswork and speculation. It is unnecessary to create artificial rules as to the species of circumstantial evidence which the jury may consider. Circumstantial evidence comes in infinite variety. Because it is not subject to the human frailties of perception, memory, and truthful recital, it is often more reliable than the accounts of eyewitnesses. When convincing, it is entitled to the same weight as direct testimony. Stamper v. Commonwealth, 220 Va. 260, 272, 257 S.E.2d 808, 817 (1979); Turner v. Commonwealth, 218 Va. 141, 145-46, 235 S.E.2d 357, 360 (1977).

As Lord Goddard points out in Regina v. Onufrejczyk, *supra* at 396, there is less reason for strictness in the proof of corpus delicti now than in earlier times. In Sir Matthew Hale's day, a person might disappear beyond all possibility of communication by going overseas or by embarking in a ship. It would have been most dangerous to infer death merely from his disappearance. Worldwide communication and travel today are so facile that a jury may properly take into account the unlikelihood that an absent person, in view of his health, habits, disposition, and personal relationships would voluntarily flee, "go underground," and remain out of touch with family and friends. The unlikelihood of such a voluntary disappearance is circumstantial evidence entitled to weight equal to that of bloodstains and concealment of evidence.

Further, the restrictions on proof which the defendant advo-

cates would place a premium on stealthy murder and successful concealment of the victim's body. Among the numerous atrocities of which Charles Manson was convicted in California in the 1970's was the murder of Shea, whose body was never found. The California Court of Appeal remarked:

The fact that Shea's body was never recovered would justify an inference by the jury that death was caused by a criminal agency. It is highly unlikely that a person who dies from natural causes will successfully dispose of his own body. Although such a result may be a theoretical possibility, it is contrary to the normal course of human affairs.

The fact that a murderer may successfully dispose of the body of the victim does not entitle him to an acquittal. That is one form of success for which society has no reward.

People v. Manson, 71 Cal. App.3d 1, 42, 139 Cal. Rptr. 275, 298 (1977), cert. denied, 435 U.S. 953 (1978).

Courts in other jurisdictions, confronted with those infrequent homicide cases in which the victims' bodies were never found, have reached similar conclusions. See, e.g., People v. Scott, 176 Cal. App.2d 458, 1 Cal. Rptr. 600 (1959) appeal dismissed and cert. denied, 364 U.S. 471 (1960); People v. Cullen, 37 Cal. 2d 614, 624, 234 P.2d 1, 16 (1951); State v. Pyle, 216 Kan. 423, 532 P.2d 1309 (1975); Commonwealth v. Burns, 409 Pa. 619, 187 A.2d 552 (1963); Kugadt v. State, 38 Tex. Crim. 681, 44 S.W. 989 (1898); Regina v. Onufrejczyk, supra; The King v. Horry, [1952] N.Z.L.R. 111.

In homicide cases, the corpus delicti must consist of proof (1) of the victim's death, and (2) that it resulted from the criminal act or agency of another. Clark v. Commonwealth, 220 Va. 201, 257 S.E.2d 784 (1979). Although this is the first such case to come to this Court in which the victim's body was not found, we have long held that the corpus delicti may be proven by circumstantial evidence. Lane v. Commonwealth, 219 Va. 509, 514, 248 S.E.2d 781, 783 (1978); Bowie v. Commonwealth, 184 Va. 381, 35 S.E.2d 345 (1945); Cochran v. Commonwealth, 122 Va. 801, 94 S.E. 329 (1917).

We think the evidence was sufficient to warrant the jury in

finding, to the full assurance of moral certainty, that Gina Hall was dead as the result of the criminal act of another person. The jury was entitled to take into account, in this connection, her sudden disappearance, her character and personal relationships, her physical and mental health, the evidence of a violent struggle at the house on Claytor Lake, her hidden, blood-soaked clothing, and the defendant's incriminating statements - particularly his reference to "the body" before it was generally thought she was dead.

EVIDENCE OF VICTIM'S CHARACTER

The defendant assigns error to the trial court's admission of the abundant evidence, summarized in the first part of this opinion, concerning Gina's character, traits, habits, and relationships. It is true that the Commonwealth may not ordinarily, in its case in chief, offer evidence of the good character and peaceable nature of the deceased. Thomason v. Commonwealth, 178 Va. 489, 17 S.E.2d 374 (1941). Here, however, the Commonwealth had the burden of proving by circumstantial evidence that Gina was dead as a result of the criminal act of another. The evidence must be such as to foreclose every reasonable hypothesis of innocence, including suicide, natural death, accidental death, justifiable or excusable homicide, or continuing life in absentia. The evidence objected to was relevant to negate these theories. It showed the unlikelihood that Gina would take her own life, flee, or fall victim to accidental death because of some dangerous habit or practice.

Every fact, however remote or insignificant, that tends to establish the probability or improbability of a fact in issue, is admissible. Stamper v. Commonwealth, supra, at 269, 257 S.E.2d at 815. The admission of similar evidence for the same purpose was approved in California in People v. Scott, supra, in Kansas in State v. Pyle, supra, and in Pennsylvania in Commonwealth v. Burns, supra. We find no error in its admission as part of the circumstantial evidence tending to prove the corpus delicti.

PREMEDITATION AND DELIBERATION

The defendant contends that the evidence was insufficient to support the jury's finding of the premeditation and deliberation requisite for a conviction of first degree murder. The jury was correctly instructed as to the elements of first degree and second degree murder, and the terms "willful, deliberate, and premeditated" and "malice," as used in the instructions, were properly defined. The defense made no objection to the instructions on the degrees of murder. Neither party requested an instruction as to the lesser included offense of voluntary manslaughter, and none was given. In oral argument on appeal, the defendant conceded that if the proof of corpus delicti were sufficient, there would have been evidence sufficient to support a verdict finding the defendant guilty of voluntary manslaughter.

In accordance with our decisions, the jury was instructed that "malice is implied by law from any willful, deliberate and cruel act against another, however sudden." The spattering of tiny droplets of blood through two rooms, the bloodstained clothing, the broken ankle bracelet, the large bloodstain on the carpet, and the disparity of size and strength between Gina and the defendant are all circumstances from which the jury could properly infer that she was subjected to a savage beating, resulting in death. This would readily support a finding of the malice requisite for a conviction of second degree murder.

The defendant argues correctly that premeditation and deliberation, which the Commonwealth must prove beyond a reasonable doubt to obtain a first degree murder conviction, require the adoption of a specific intent to kill, which is something more than malice. Smith v. Commonwealth, 220 Va. 696, 261 S.E.2d 550 (1980). "The intent to kill must come into existence at some time before the killing; it need not exist for any particular length of time." Id. at 700, 261 S.E.2d at 553. "[I]t is necessary that the killing be done on purpose and not by accident or without design...." McDaniel v. Commonwealth, 77 Va. 281, 284 (1883).

"The exact state of the defendant's mind at the time of the killing is the crucial factor in determining intent. . 'It is the will and purpose to kill, not necessarily the interval of time, which determines the grade of the offense.'" Smith, supra, at 700-01, 261 S.E.2d at 553. "A design to kill may be formed only a moment before the fatal act is committed, provided the accused had time to think and did intend to kill." Giarratano v. Commonwealth, 220 Va. 1064, 1074, 266 S.E.2d 94, 100 (1980).

The jury was justified in finding from the evidence that the defendant, knowing that there would be no one else at the Davis home on the night of June 28-29, persuaded Gina to go there with him by leading her to believe others would be present; that his original intention was to have sexual intercourse with her, but that she rebuffed his advances; that he attempted to take her by force, removing her outer clothing and breaking her ankle bracelet in the process; that the struggle became so violent that he realized she was a potential witness against him on a charge of sexual assault; that he thereupon resolved to silence her permanently, to hide her body, to dispose of the evidence, and to escape detection.

The question whether premeditation and deliberation exist, so as to elevate a homicide to first degree murder, is in the province of the jury. Hodges v. Commonwealth, 213 Va. 316, 191 S.E.2d 794 (1972). In deciding it, the jury may properly consider the brutality of the attack, and whether more than one blow was struck, Jackson v. Virginia, 443 U.S. 307, 325 (1979); the disparity in size and strength between the defendant and the victim, State v. LaChance, 524 S.W.2d 933 (Tenn. 1975); the concealment of the victim's body, State v. Austin, 52 Ohio App.2d 59, 368 N.E.2d 59 (1976); and the defendant's lack of remorse and efforts to avoid detection, Smith v. Commonwealth, supra. While motive is not an essential element of the crime, it is relevant and often most persuasive upon the question of the actor's intent. Smith, Id., Ward v. Commonwealth, 205 Va. 564, 138 S.E.2d 293 (1964).

While none of these factors might be sufficient standing alone, in combination they are more than enough to support the jury's finding that the killing of Gina Hall was not only malicious, but also willful, deliberate, and premeditated. All of the defendant's conduct after Gina's disappearance is consistent with the continuing execution of a scheme, adopted before her death, to dispose of her furtively, permanently, and with impunity.

DOG TRACKING

The defendant assigns error to the admission of the dog-tracking evidence. Although a question of first impression in Virginia,² many courts elsewhere have considered the admissibility of such evidence, beginning with Hodge v. State, 98 Ala. 10, 13 So. 385 (1893). An excellent summary of the development of this area of the law was written by Judge Thompson, who calls it "[a] very colorful page of American folklore," in Terrell v. State, 3 Md. App. 340, 344, 239 A.2d 128, 130 (1967). See also Annot., 18 A.L.R.3d 1221 (1968).

Although a few jurisdictions exclude such evidence generally, and some require proof that the dog is a "purebred bloodhound," a substantial majority of jurisdictions admit such evidence after the trial judge is satisfied that a proper foundation has been laid. Thereafter, objections on such grounds as the staleness and contamination of the trail due to lapse of time, precipitation or other traffic, as well as matters such as the relative inexperience of dog or handler, go only to the weight which the jury should give to the result. See, e.g., State v. Harris, 25 Or. App. 71, 547 P.2d 1394 (1976).

We hold that dog-tracking evidence is admissible in a criminal case after a proper foundation has been laid to show that the handler was qualified to work with the dog and to interpret its responses, that the dog was a sufficiently trained and proven

²

No error was assigned to the admission of evidence of this kind in Noell v. Angle, 217 Va. 656, 231 S.E.2d 330 (1977).

tracker of human scent, that the dog was placed on the trail where circumstances indicated that the guilty party had been, and that the trail had not become so stale or contaminated as to be beyond the dog's tracking capabilities.

John Preston's testimony furnished a strong foundation for the admission of the evidence. His qualifications and the dog's training and abilities were fully developed. The dog was placed on the track at a point where other evidence showed that the perpetrator had been. The trail was eleven days old and had been subjected to considerable rainfall, but the foundation testimony showed that the dog had successfully followed older trails and had succeeded despite far worse atmospheric conditions. In the actual event, the dog unerringly followed the trail past the various points where the victim's clothing and the bloodstained towel had been hidden, and came to the defendant's front door. The factors of staleness and contamination of the trail were properly submitted to the jury's consideration in connection with the weight to be given to Preston's testimony. There was no error in the admission of the evidence.

ADDITIONAL ASSIGNMENTS OF ERROR

The defendant assigns three additional errors:

(1) In the cross-examination of Captain Williams, by defense counsel, the following testimony was given:

Q. "You went down there and talked to him [the defendant] before you went out to the cabin?"

A. "Yes, sir."

* * * * *

Q. "And what discussions did you have at that time?"

A. "In reference to taking a polygraph."

Q. "What happened after that, did you see him anymore that day?"

A. "I don't recall seeing him anymore until later that night."

After Williams was excused and after two more witnesses had testified and were excused, defense counsel moved for a mistrial because of the mention of the word "polygraph." The trial judge concluded that the answer had been inadvertently elicited by defense counsel and that in the context of which it was used, without definition or elaboration, it was harmless. We agree.

(2) On the fourth day of trial the defendant wrote a letter to the judge requesting that his counsel be relieved, and moving for a mistrial and the appointment of new counsel. The court denied the motion, noting that defense counsel had been giving him "an energetic and effective representation." We agree.

(3) The court denied a pre-trial motion for change of venue based on extensive local publicity. The court ruled that an effort would be made to impanel an unbiased Pulaski County jury, but if twenty veniremen free from exception could not be found, the court would reconsider the motion for change of venue. After a lengthy and careful voir dire, a panel of twenty was drawn which was free from exception. The motion was thus rendered moot and was not renewed.

We find no reversible error in the record and will affirm the judgment.

Affirmed.

Present: All the Justices

STEPHEN M. EPPERLY

OPINION BY JUSTICE RICHARD H. POFF

v. Record No. 861102

March 4, 1988

E. L. BOOKER, WARDEN

FROM THE CIRCUIT COURT OF PULASKI COUNTY
Duane E. Mink, Judge

In Epperly v. Commonwealth, 224 Va. 214, 294 S.E.2d 882 (1982), we affirmed a judgment confirming the verdict of a jury that convicted Stephen M. Epperly (the defendant or the petitioner) of murder of the first degree of Gina Hall. The defendant's petition for habeas corpus relief filed in the United States District Court for the Western District of Virginia was dismissed for failure to exhaust state remedies. Thereafter, the defendant filed a petition for a writ of habeas corpus in the court below, the court denied the petition, and we granted the petitioner an appeal.

Our opinion in Epperly contains an exhaustive summary of the facts underlying the conviction. The victim's corpse was never found, and aside from certain inculpatory statements made by the accused, the evidence was entirely circumstantial. Gina was last seen in the late evening hours of Saturday, June 28, 1980, leaving a hotel lounge in Epperly's company. Using a brown Chevrolet belonging to her sister, Dlana, Gina and Epperly drove to a house located on the shore of Claytor Lake in Pulaski County. The owners were on vacation. Their son, Bill King, arrived with a girlfriend about 4:00 a.m. King entered the

house and spoke briefly with Epperly who was dressed only in trousers. While King was at the dock with his friend who was swimming in the lake, Epperly called from the house to say that "we're leaving" and drove away in the brown Chevrolet. Neither King nor his date saw Gina at the house or in the car.

Several hours later that Sunday morning, a police officer observed the Chevrolet with its trunk open, parked along a road in Pulaski County near the place where a railroad trestle crosses the New River into the City of Radford. Gina's sister identified her car on Monday. Laboratory analyses of blood stains in the trunk of the car, and those discovered in the carpet and elsewhere in and around the lake house, showed that they were consistent with Gina's blood type.

A search for Gina's body, conducted along both banks of the river downstream from the trestle, proved unsuccessful. One of Gina's shoes was found on the Radford bank at a point near the end of the trestle. Later on separate occasions, police and volunteer searchers discovered, at different points upstream from the trestle on the Radford bank, the clothes Gina had worn to the hotel lounge and two towels similar to those used in the lake house. Gina's jacket and trousers were stained with blood, and a head hair identical to samples supplied by the defendant was removed from her trousers. Fibers like those in the carpet at the lake house were found on Gina's clothing, including her panties. One of the towels contained the same fibers and matching bloodstains.

Following interviews with King and Epperly, the police began to consider Epperly a suspect. On July 10, Everett Shockley, Commonwealth's Attorney for Pulaski County, engaged the services of John Preston, a retired Pennsylvania State Trooper with extensive experience in the training and handling of tracking dogs. Following their telephone conversation, Preston left his home in Pennsylvania and arrived in Radford about midnight that day. Police officers took Preston and his German Shepherd dog to a point near the spot where the Chevrolet had been found abandoned. The officers never identified Epperly as a suspect, and Preston and his dog were wholly unfamiliar with the territory. The police gave Preston a "scent object", a pair of the defendant's undershorts acquired earlier that day from his mother. The dog sniffed the underwear and began a random "casting search". When he discovered the scent he was seeking, he followed a path leading from the road upgrade to the trestle. Preston restrained the dog with a long leash, and the officers followed about 20 yards behind.

The dog "paused" on the trestle at a point over the river and again on the Radford bank where Gina's shoe had been found. The trail led along the left side of the railroad tracks downstream a distance of several city blocks. At a point beneath an overhead highway bridge, the trail crossed the tracks and returned along the main-line tracks and the tracks of a spur line to an area upstream from the trestle where the towels and clothing had been discovered. Leaving the spur tracks, the trail passed around three sides of a box factory and two sides

of a shopping center, crossed a city street, and continued through the open bay of a car wash. Leading Preston from there along city streets, the dog walked onto the porch of the defendant's residence, his mother's home, and stopped at the front door. The trail had covered a distance of approximately two miles.

Preston's testimony detailing the dog's performance is the focus of the first of the two issues before us. The petitioner contends that "[t]he prosecutor suppressed critical evidence concerning the handling of the scent object and denied the defendant a fair trial." The petitioner refers to evidence which he says shows that Preston had instructed Shockley how and by whom the scent object was to be acquired, that those instructions had been violated, and consequently, that both the scent object and the trail followed by the dog had been "contaminated" by the conduct of Gerald Williams, an officer who had participated in the initial search of the area and in the tracking process. The defendant argues that the prosecutor's failure to disclose that evidence deprived him of the opportunity to discredit the reliability of the dog-tracking evidence and infringed his right to due process of law.

At the plenary hearing, Preston testified that it was his custom to instruct those who engage his services that "whoever picks up a scent object should not have been near . . . the scene to be tracked" and that "when the scent object is received it should be put in some secure container". Asked if he had given those instructions to the Commonwealth's Attorney during

their telephone conversation, Preston replied, "I would believe so, yes." Shockley testified that "I remember him telling me to obtain a scent article from the suspect . . . [and to] get it wrapped up in a bag or something like that."

Officer Williams had acquired the scent object from the defendant's mother the afternoon of the day Preston arrived and had delivered it to Preston that night. The petitioner believes that "Williams handled the underwear at least twice" and that his testimony at the criminal trial could be construed to mean that he had it in his vehicle or on his person during the several hours it was in his possession. He relies upon a stipulation the parties made during the criminal trial.

As stated by the defendant's trial counsel, the parties agreed that the object was "an article of clothing which is normally worn by the defendant, Stephen Epperly, that it most likely had been recently worn by Mr. Epperly, that it . . . came from a pile of clothes which was on its way to be laundered . . . and that Mrs. Epperly handed it to Captain G. S. Williams".

Immediately after the stipulation was made, Williams identified the article of clothing:

Q. You have a bag in your hand, would you remove its contents, please. Is that what you received from Mrs. Epperly?

A. Yes, sir, it is.

Q. What did you do with that underwear?

A. This was turned over to John Preston.

At the plenary hearing, Williams was asked how he had acquired the underwear from Mrs. Epperly. The transcript discloses his replies:

A. From my recollection of that particular event she got the article, and I hadn't brought anything with me to carry it in so she provided me with a paper bag in which the article was placed.

Q. Did you ever have occasion to touch the scent article?

A. No sir.

On brief, the petitioner challenges the truth of this testimony because, he says, it "contradicts the stipulation to which the prosecution agreed at the trial . . . [viz, that] both parties understood that Mrs. Epperly handed the underwear to Williams". The petitioner interprets the word "handed" as used in the stipulation to mean that Mrs. Epperly passed her son's underwear, worn, unwashed, and unconcealed, from her hand to the officer's hand.

We see no contradiction between the testimony and the stipulation. As judge of the credibility of the witnesses, the habeas court concluded that "[t]here is no evidence that Captain Williams ever touched the scent article, only that the article was placed in a paper bag which he did handle, but nevertheless, there is no evidence that he ever actually touched the article itself." Significantly, Williams was standing near Preston's dog when it began its random "casting search" for the scent it detected on the underwear. Preston testified that even if Williams' body heat had transferred his body scent to the bag containing the underwear, "the normal actions of the dog when he

is scented where the person . . . is standing . . . [are] that he would go to that individual and usually nuzzle him in the groin with his nose". This did not occur, and Preston testified that, although Williams had followed behind him along the entire trail, the dog never approached the officer.

The record makes it clear that, even if the scent object was contaminated, the long, circuitous trail leading to the petitioner's front door was not. Williams acknowledged that he had walked along the banks of the river searching for the victim's body, that he had taken pictures of the places where Gina's effects had been found, and that he may have walked across the trestle at some point before Preston began the tracking. But when asked if he ever had walked "down the railroad tracks on the Radford side and come back up the other side of the railroad track", he replied, "definitely not following that particular pattern." Moreover, Williams' uncontested testimony was that he never had walked around the box factory or through the car wash, and Preston opined that "[i]f Captain Williams never walked in those areas I would think it not be possible that [the dog] would have been tracking Captain Williams' scent."

We resolve the suppression complaint against the petitioner. "[S]uppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment". Brady v. Maryland, 373 U.S. 83, 87 (1963). Even assuming the prosecutor had a duty to disclose any instructions he may have

received from Preston and any violation thereof, "[t]he evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." United States v. Bagley, 473 U.S. 667, 682 (1985). Because the evidence the petitioner says the prosecutor suppressed fails to show that either the scent object or the trail the dog tracked was contaminated, we hold that the evidence does not satisfy the test of materiality, and we reject the petitioner's due process argument.¹

In a second due process complaint, the petitioner contends that he was denied a fair trial because the Commonwealth's Attorney ordered prosecution witnesses not to talk with defense counsel.

¹In support of our conclusion that disclosure by the prosecutor would not have altered the jury's reliance upon the dog-tracking evidence, we note that Preston demonstrated the reliability of his dog's talents by conducting two additional tests. At the criminal trial, Preston testified that, later in the day following the tracking, he placed six blue towels, one of which was the blood-stained towel from the lake house, in a horizontal line on the floor, that he "scented" the dog on the defendants' underwear outside the room, and that the dog "immediately proceeded in and stopped at this towel and refused to leave it til [sic] I told him to leave." This proved, Preston said, that "the scent that is on the underwear is also on the towel." On the night of July 12, Epperly arrived at the Radford police station in his car, entered the building, and went to Captain Williams' office. Preston testified that he scented the dog on the same blue towel and that "the dog came up to the left-hand side of Mr. Epperly's vehicle, smelled of his driver's door handle and then proceeded to track him from the vehicle in through the police station to the door of Captain Williams' office." While Epperly was being told about the dog's performance, he "sat there in the chair with his head down . . . and after a couple of minutes he looked up and he said, 'That's a damn good dog.'" Preston recalled that "[h]e said it three times rather rapidly".

This complaint was raised for the first time in Epperly's petition for habeas relief. At the plenary hearing, the Commonwealth's Attorney testified that the only such instruction he remembered giving was addressed to State Trooper Austin Hall. Shockley explained that he had given the instruction because "the extent of [the trooper's] knowledge was mostly hearsay", and Shockley felt that to permit him to discuss the case with defense counsel "would have provided . . . discovery that they were not entitled to receive under Rule 3A". One of the defendant's trial counsel said that he "never received information from any non-police officer that Mr. Shockley suggested they not talk to [us], it was police officers who said we're not going to."

In preparation for the criminal trial, defense counsel filed a motion praying "that the Court order the Commonwealth to refrain from any interference with attempts by defense counsel to interview witnesses." The trial judge entered an order couched in the express language of that prayer and providing further "That any Commonwealth witness in this prosecution cooperate with the defense attorneys in their efforts to interview"

The Commonwealth's Attorney then petitioned this Court for a writ of prohibition against enforcement of the trial judge's order. We granted the petition, but only in part. Our writ prohibited the trial judge "from enforcing that part of an order entered by him . . . [which] ordered 'That any Commonwealth witness in this prosecution cooperate with the defense attorneys

in their efforts to interview" The single mandate of the writ was designed to uphold the personal privilege of every witness to decline to talk with any litigant's counsel, see United States v. Walton, 602 F.2d 1176, 1179-80 (4th Cir. 1979), leaving intact that part of the trial judge's order that prohibited the Commonwealth's Attorney from interfering with the right of an accused under Article I, Section 8, of the Constitution of Virginia to "call for evidence in his favor".

We reaffirm our holding in Bobo v. Commonwealth, 187 Va. 774, 779, 48 S.E.2d 213, 215 (1948), that this constitutional guarantee protects "the right to prepare for trial which, in turn, includes the right to interview material witnesses and to ascertain the truth." Our holding in Bobo is reinforced by the Virginia Code of Professional Responsibility. "The prosecutor in a criminal case . . . shall . . . [n]ot discourage a person from giving relevant information to the defendants." DR 8-102(A)(3) (1987). As qualified by the writ of prohibition, the trial judge's order is fully consistent with those principles.

It is unclear from the two records before us whether, after issuance of the writ of prohibition, the Commonwealth's Attorney persisted in his instructions that prosecution witnesses should not talk with defense counsel. For purposes of this habeas appeal, however, we will assume that defense counsel continued to request interviews with those witnesses and that those witnesses, unaware that the trial judge's order authorizing them to talk with defense counsel was unaffected by

the writ of prohibition, declined the requests under a sense of duty to obey the earlier instructions of the Commonwealth's Attorney.

Yet, the complaint urged by counsel in this habeas appeal, i.e., that this constituted a due process violation of the trial judge's order, was never raised for the benefit of the judge by trial counsel or presented to this Court in an assignment of error by different counsel appointed to perfect the criminal appeal. Thus, we are confronted with procedural defaults, both at trial and on appeal. We consistently have held that "we will adjudicate only those [issues] raised at trial in compliance with Rule 5:25, our contemporaneous objection rule, . . . and those raised on appeal by assignment of error, Rule 5:17(c)." Delong v. Commonwealth, 234 Va. 357, 360, 362 S.E.2d 669, 670 (1987) (citations omitted). And "[a] prisoner is not entitled to use habeas corpus to circumvent the trial and appellate processes for an inquiry into an alleged non-jurisdictional defect of a judgment of conviction." Slayton v. Parrigan, 215 Va. 27, 30, 205 S.E.2d 680, 682 (1974), cert. denied sub nom. Parrigan v. Paderick, 419 U.S. 1108 (1975); accord Coppola v. Warden, 222 Va. 369, 373, 282 S.E.2d 10, 12 (1981), cert. denied, 455 U.S. 927 (1982).

The petitioner argues that these procedural defaults should be excused. He reasons that his attorneys at trial and those on appeal failed to raise the interference issue because they felt it was futile to do so. Specifically, the petitioner

contends that "[h]is lawyers . . . erroneously concluded that this Court had ruled on the point" in its writ of prohibition.

In Wainwright v. Sykes, 433 U.S. 72, 87 (1977), the Supreme Court held that, in order to litigate a constitutional claim in a federal habeas proceeding, a petitioner who has failed to comply with a state's procedural rules must show cause for the procedural default and prejudice resulting therefrom. "[T]he futility of presenting an objection to the state courts cannot alone constitute cause for a failure to object at trial. . . . Even a state court that has previously rejected a constitutional argument may decide, upon reflection, that the contention is valid." Engle v. Isaac, 456 U.S. 107, 130 (1982); accord Smith v. Murray, 477 U.S. 527, ___ (1986). "[T]he mere fact that counsel failed to recognize the factual or legal basis for a claim . . . does not constitute cause for a procedural default", Murray v. Carrier, 477 U.S. 478, ___ (1986), and "the cause and prejudice test applies to defaults on appeal as to those at trial", id. at ___.

It is immaterial, then, that Epperly's trial and appellate counsel may have failed to raise the interference issue because, acting on a misunderstanding of the legal effect of the writ of prohibition, they considered a complaint futile. Their mistakes do not constitute cause to excuse their procedural defaults.²

²Nor do their mistakes constitute a deprivation of the defendant's Sixth Amendment right to counsel. Although the petitioner advanced such an argument in the habeas court, he
(Footnote Continued)

The evidence fails to satisfy the second leg of the Wainwright test as well; the petitioner is unable to show how he was prejudiced by the procedural defaults. His trial attorneys conceded in testimony at the plenary hearing that, notwithstanding the Commonwealth's Attorney's interference with their right to interview prosecution witnesses, they were not surprised by any evidence presented at trial, with the exception of testimony detailing three inculpatory statements made by Epperly. One was his exclamation complimenting the talents of Preston's dog. A second was his response to an officer who, after accusing him of the crime, advised him to consider how his cooperation with the investigators would affect the jury; "I'll think about it", he said. And the third was Epperly's request of a friend, made before the investigators had concluded that Gina was dead, to ask his brother, an attorney, "if there was anything that they could do to him if they didn't find a body."

In support of his prejudice argument, the petitioner says that "had the prosecutor not issued his directive to the police, the defense might well have discovered all three statements." Epperly does not challenge any of these statements, and he will not be heard to contend that he was surprised by the testimony

(Footnote Continued)
acknowledges on brief in this Court that "his lawyers were not unreasonable . . . in erroneously concluding that the prosecutor's conduct could not be challenged after the writ was granted." See Strickland v. Washington, 466 U.S. 668, 690 (1984) (standard for judging attorney performance is "reasonableness of counsel's challenged conduct on the facts of the particular case").

at trial when he could have disclosed his own statements to his own attorneys as they were preparing his defense. It follows that the petitioner has suffered no legally sufficient prejudice from the procedural defaults, and we will enforce the rules of this Court.

Because a convicted defendant cannot use habeas as a substitute for a direct appeal, we will not consider the interference complaint. Having considered and rejected the petitioner's suppression complaint, we will affirm the judgment dismissing the petition for a writ of habeas corpus.

Affirmed.

A Copy,

Teste:


Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

NO. 92-6128

STEPHEN EPPERLY

v.

Civil Action No. 89-0456-R

F. L. BOOKER, et als.

FILED

APR 13 1992

U.S. Court of Appeals
Fourth Court

Appeal from the United States District Court for the Western
District of Virginia, Roanoke Division, Honorable Jackson L. Kiser,
presiding.

VOLUME 24 OF ROA



COMMONWEALTH of VIRGINIA

Office of the Attorney General

June 23, 1989

Mary Sue Terry
Attorney General

H. Lane Kneedler
Chief Deputy Attorney General

R. Claire Guthrie
Deputy Attorney General
Human & Natural Resources Division

Gail Starling Marshall
Deputy Attorney General
Judicial Affairs Division

Walter A. McFarlane
Deputy Attorney General
Finance & Transportation Division

Stephen D. Rosenthal
Deputy Attorney General
Criminal Law Enforcement Division

Deborah Love-Bryant
Executive Assistant

The Honorable R. Glenwood Lookabill, Clerk
Pulaski Circuit Court
P. O. Box 270
Pulaski, Virginia 24301

Re: Steven M. Epperly v. F. L. Booker, Warden,
Attorney General of Virginia
Civil Action No. 89-0456-R

Dear Mr. Lookabill:

The above-captioned habeas corpus proceeding is now pending in the United States District Court for the Western District of Virginia, Roanoke Division. The petitioner was convicted in your Court on December 16, 1980 of first degree murder.

The District Court, in the order directing us to answer, requests that the State records of the original trial, or certified copies thereof, including all transcripts, be made available to determine the necessity of a plenary hearing. This is in accordance with Townsend v. Sain, 372 U.S. 293 (1963), and other Supreme Court decisions. The large majority of habeas corpus proceedings brought by state prisoners in Federal Courts are disposed of upon the State Court records and no Federal plenary hearing is necessary.

Full assurances that the records will be safely kept, preserved, and returned to your Court upon completion of the proceedings have been given by the District Court. Accordingly, pursuant to § 8.01-667 of the Code of Virginia, I respectfully request the Court to enter the enclosed order directing the Clerk to mail the records in the above matter by registered mail to the Clerk of the United States District Court, Western District of Virginia, Roanoke Division.

Your cooperation is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Robert H. Anderson, III".

Robert H. Anderson, III
Assistant Attorney General
Criminal Litigation Section

3:11/248
Enclosure

V I R G I N I A:

IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

Petitioner,

v.

Dec.16, 1980;
1st degree murder;
life.

STEVEN M. EPPERLY,

Respondent.

ORDER

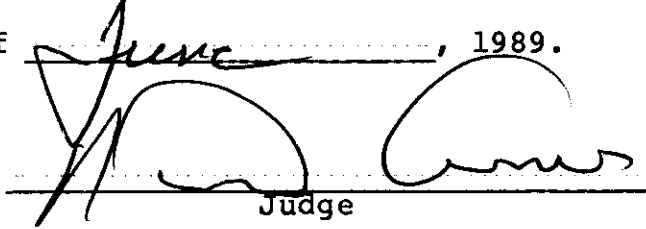
This day came an Assistant Attorney General of Virginia and represented unto the Court that there is pending in the United States District Court for the Western District of Virginia, Roanoke Division, a habeas corpus petition styled Steven M. Epperly v. F. L. Booker, Warden, Attorney General of Virginia; (Civil Action No. 89-0456-R) that it is necessary that the records in the captioned matter be forwarded to the Clerk of the United States District Court, Roanoke, Virginia; and that the Judge of said Court has given assurances that said records will be carefully kept and preserved and returned to the Clerk of this Court after disposition of the Federal habeas corpus case has been made.

Upon mature consideration thereof, it is, therefore, ADJUDGED and ORDERED that the Clerk of this Court do forward to the Clerk of the United States District Court, Roanoke, Virginia, by registered mail, the entire record in the captioned matter,

52-106

including all transcripts. It is further ordered that a certified copy of this Order be sent to Robert H. Anderson, III, Assistant Attorney General, Supreme Court Building, 101 North Eighth Street, Richmond, Virginia 23219.

Entered this 27 day of June, 1989.



Judge

I ask for this:



Assistant Attorney General

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Friday the 4th day of March, 1988.*

Stephen M. Epperly, Appellant,
against Record No. 861102
Circuit Court No. 2467/80-203
E. L. Booker, Warden, Appellee.

Upon an appeal from a judgment rendered by the Circuit Court of Pulaski County on the 28th day of August, 1986.

For reasons stated in writing and filed with the record, the Court is of opinion that there is no error in the judgment appealed from. Accordingly, the judgment is affirmed. The appellant shall pay to the Commonwealth of Virginia thirty dollars damages.

It is ordered that the said circuit court allow counsel for the appellant a fee of \$550 for services rendered the appellant on this appeal, in addition to counsel's costs and necessary direct out-of-pocket expenses.

The Commonwealth shall recover of the appellant the amount paid court-appointed counsel to represent him in this proceeding, counsel's costs and necessary direct out-of-pocket expenses, and the fees and costs to be assessed by the clerk of this Court and the clerk of the court below.

This order shall be certified to the said circuit court.

A Copy,

Teste:

Entered nunc pro tunc


Clerk 49-246

Circuit Court of Pulaski County

Gerry J. Atkinson, Clerk

Pulaski, Virginia 24301

JUDGES

KENNETH I. DEVORE
CHRISTIANSBURG, VA.

DUANE E. MINK
RADFORD, VA.

A. DOW OWENS
PULASKI, VA.

WILLIS A. WOODS
WYTHEVILLE, VA.



MAILING ADDRESS

P. O. BOX 270
PULASKI, VIRGINIA 24301

TELEPHONE

(703) 980-6171
980-8888 EXT. 409

September 14, 1987

CERTIFIED MAIL

The Honorable David B. Beach, Clerk
Supreme Court of Virginia
Supreme Court Building - 4th Floor
100 North Ninth Street
Richmond, Virginia 23219

In Re: Stephen Matteson Epperly v. E. L. Booker - HABEAS CORPUS APPEAL

Dear Mr. Beach:

The Court file of the Habeas Corpus, in the above style, has previously been sent to the Supreme Court, on appeal from the Circuit Court of Pulaski County. However, inasmuch as the the original criminal file, together with the transcripts of evidence were incorporated in the Habeas appeal by the direction of the trial Court, I am now sending these to the Supreme Court.

By our oversight, we failed to include the original record, Commonwealth v. Stephen Matteson Epperly, #80-203, when the file of the Habeas Corpus appeal was sent to your Court.

This should constitute the complete record.

Please call on me if I may be of further assistance.

Sincerely,

Gerry J. Atkinson, Clerk

Circuit Court of Pulaski County

Gerry J. Atkinson, Clerk

Pulaski, Virginia 24301

JUDGES

KENNETH I. DEVORE
CHRISTIANSBURG, VA.

DUANE E. MINK
RADFORD, VA.

A. DOW OWENS
PULASKI, VA.

WILLIS A. WOODS
WYTHEVILLE, VA.



February 18, 1987

MAILING ADDRESS

P. O. BOX 270
PULASKI, VIRGINIA 24301

TELEPHONE

(703) 980-6171
980-6888 EXT. 409

Honorable David B. Beach
Intermediate Court of Appeals
Supreme Court Building, 4th Floor
100 N. Ninth Street
Richmond, Virginia 23219

In Re: Stephen Matteson Epperly V. E. L. Booker, Habeus Corpus

Dear Mr. Beach:

Enclosed please find the file and the transcript of evidence, constituting the record in the above-styled matter on appeal to the Intermediate Court of Appeals

Please call on me if I may be of further assistance.

Very truly yours, -

Gerry J. Atkinson, Clerk

Circuit Court of Pulaski County

Gerry J. Atkinson, Clerk

Pulaski, Virginia 24301

JUDGES

KENNETH I. DEVORE
CHRISTIANSBURG, VA.

DUANE E. MINK
RADFORD, VA.

A. DOW OWENS
PULASKI, VA.

WILLIS A. WOODS
WYTHEVILLE, VA.



February 18, 1987

MAILING ADDRESS

P. O. BOX 270
PULASKI, VIRGINIA 24301

TELEPHONE

(703) 986-6171
986-8888 EXT. 409

Honorable David B. Beach
Intermediate Court of Appeals
Supreme Court Building, 4th Floor
100 N. Ninth Street
Richmond, Virginia 23219

In Re: Stephen Matteson Epperly V. E. L. Booker, Habeus Corpus

Dear Mr. Beach:

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Please call on me if I may be of further assistance.

Very truly yours,

Gerry J. Atkinson, Clerk

Circuit Court of Pulaski County

Gerry J. Atkinson, Clerk
Pulaski, Virginia 24301

JUDGES

KENNETH I. DEVORE
CHRISTIANSBURG, VA.

DUANE E. MINK
RADFORD, VA.

A. DOW OWENS
PULASKI, VA.

WILLIS A. WOODS
WYTHEVILLE, VA.



February 18, 1987

MAILING ADDRESS
P O. BOX 270
PULASKI, VIRGINIA 24301
TELEPHONE
(703) 930-6171
930-8888 EXT. 409

Honorable David B. Beach
Intermediate Court of Appeals
Supreme Court Building, 4th Floor
100 N. Ninth Street
Richmond, Virginia 23219

In Re: Stephen Matteson Epperly V. E. L. Booker, Habeus Corpus

Dear Mr. Beach:

Enclosed please find the file and the transcript of evidence, constituting the record in the above-styled matter on appeal to the Intermediate Court of Appeals

Please call on me if I may be of further assistance.

Very truly yours, -

Gerry J. Atkinson, Clerk

Supreme Court of Virginia

Stephen M. Epperly,

Appellant,

against

Record No. 861102

Circuit Court No. 2467/80-203

E. L. Booker, Warden,

Appellee.

From the Circuit Court of Pulaski County

Certificate

Pursuant to Rule 5:23 of the Rules of the Supreme Court of Virginia, I, David B. Beach, Clerk of the said Court, do hereby certify that on August 18, 1987 an appeal was awarded from a judgment rendered by the court below on August 28, 1986 in the suit therein depending under the short style of Stephen M. Epperly v. E. L. Booker, Warden.

This certificate, constituting the summons on appeal, was this day mailed to the court below and to

Stephen A. Saltzburg, University of Virginia School of Law, Charlottesville, Virginia 22901

Max Jenkins, 513 Norwood Street, P. O. Box 886, Radford, Virginia 24141

Counsel for Appellant

Mary Sue Terry, Attorney General of Virginia, Supreme Court Building, Richmond, Virginia 23219

Robert H. Anderson, III, Assistant Attorney General, Supreme Court Building, Richmond, Virginia 23219

Counsel for Appellee

Given under my hand this 19th day of August , 1987.

H. B. [Signature]
Clerk

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Tuesday the 18th day of August, 1987.*

Stephen M. Epperly, Appellant,
against Record No. 861102
Circuit Court No. 2467/80-203
E. L. Booker, Warden, Appellee.

From the Circuit Court of Pulaski County

Upon the petition of Stephen M. Epperly an appeal is awarded him from a judgment rendered by the Circuit Court of Pulaski County on the 28th day of August, 1986 in a certain proceeding then therein depending, wherein Stephen M. Epperly was petitioner and E. L. Booker, Warden, was respondent; no bond being required.

This appeal, however, is limited to the consideration of questions Nos. 1 and 2 which read as follows:

1. Whether the prosecutor denied petitioner a fair trial when he suppressed evidence that a dog handler, who provided critical evidence against petitioner, had given two instructions to assure that an item used as the basis for dog tracking would be free from contamination and the prosecutor concealed from the handler and the trial court the fact that both instructions had been ignored and the scent item was contaminated.

2. Whether the prosecutor denied petitioner a fair trial when he ordered government witnesses not to talk to defense counsel, which order violated the Fourteenth Amendment to the United States Constitution, state ethical rules, and basic principles of fundamental fairness.

48-97

On further consideration whereof, it is ordered that the parts of the record to be printed or reproduced in the appendix are to be limited to those parts of the record germane to questions Nos. 1 and 2, and the briefs to be filed shall be limited to such discussion as is relevant to the questions upon which this appeal is awarded.

The petition for appeal is refused as to questions Nos. 3 and 4.

A Copy,

Teste:

H. B. Hall
Clerk

Gina Renee Hall

*Epperly
trial/case
1980*



Above: Hall, circa 1980

Vital Statistics at Time of Disappearance

- **Missing Since:** June 28, 1980 from Radford, Virginia
- **Classification:** Endangered Missing
- **Age:** 18 years old
- **Height:** 5'0
- **Distinguishing Characteristics:** Caucasian female. Brown hair. Hall has burn scars on her side extending from her upper arm to her thigh. Her blood type is O. She was a non-smoker and a non-drug user in 1980.

Details of Disappearance

Hall was a freshman at Radford University in 1980. She was last seen when she went out dancing with friends at a nightclub in Radford, Virginia on June 28, 1980. One of her companions, Stephen Epperly, convinced her to go with him to a cabin at Claytor Lake. When questioned by police, Epperly said he and Hall had gone to the cabin and she called her sister and stated she would be home in the morning, then he went swimming but Hall stayed out of the water. Afterwards they left the cabin and Hall dropped him off in Radford, and he went to bed. Hall has never been heard from again.

When police examined the cabin, they discovered that someone had tried to clean it up, but bloodstains of Hall's type were apparent in

several places. Hall's sister's brown *Chevrolet*, which Hall had been driving that night, was found at the Pulaski County end of the railroad trestle over the New River. There were bloodstains inside the trunk and a bloodstained blue towel was found nearby; it was identified as Epperly's and contained fibers consistent with those from the carpet at the Claytor Lake cabin. One of Hall's shoes was found at the opposite end of the railroad trestle. Two weeks later, searchers found the clothing Hall had been wearing the night of her disappearance. It had been tied up in a bundle and was bloodstained.

Epperly was charged with Hall's murder later in 1980. Investigators theorized he killed Hall after she refused his sexual advances. Though he maintained his innocence in her case, he was convicted and sentenced to life in prison. He is still incarcerated. Hall's remains have never been found, but foul play is suspected in her case due to the circumstances involved. Hers was the case in Virginia where a defendant was convicted of murder even though the victim's body had not been found.

Investigating Agency

If you have any information concerning this case, please contact:

Omaha Police Department
402-444-5839

Source Information

The Doe Network
The Malefactor's Register
WDBJ 7
The Roanoke Times
The Washington Post

Updated 1 time since October 12, 2004.

Last updated February 1, 2007; casefile added.

Charley Project Home

"For violence and hurt tangle every man in their toils, and for the most part fall on the head of him from whom they had their rise; nor is it easy for one who by his act breaks the common pact of peace to lead a calm and quiet life."
— Lucretius *On the Nature of Things*.

The Malefactor's Register

Crime. Punishment. Law. Writing.



10/4/2005

Found this on internet

Corpus Delicti

Category: 1980s —

For murder though it have no tongue, will speak With most miraculous organ.
~William Shakespeare, *Hamlet, Prince of Denmark*

Proving a murder has occurred when there is no body is always an toilsome proposition. Sometimes, the state has it "easy:" the person who committed the crime confesses the deed. Sometimes, there is a little bit more effort required: An eyewitness sees the defendant kill the victim, or witnesses the killer dispose of the body. When this occurs, the state must have other evidence that corroborates the witness testimony. The most difficult no-body murder case to prove is when the state has no confession and no witnesses and only circumstantial evidence to establish the corpus delicti.

Which brings us to the concept of *corpus delicti* in the first place. Just what does the term *corpus delicti* mean? What it is not is "the dead body." Basically, *corpus delicti* means the elements of the crime. In other words, that the victim was unlawfully killed within the jurisdiction of the court where the accused is standing trial. Of course, this is a very general description of the term, and each type of crime has elements that distinguish it from other crimes. Thus, someone who commits involuntary manslaughter by accidentally dropping an anvil on the downstairs neighbor's head while moving his ironworking supplies to the attic is not guilty of the same crime as Aunt Martha, who puts a pinch of arsenic in the parson's tea so he won't report her for stealing from the church's choir robe fund to pay off her gambling interests.

The general public's misunderstanding of *corpus delicti* leads some to believe that it is possible to get away with murder if the authorities cannot find the body.

Fortunately, this is not true. People have been and will continue to be convicted of murder despite the fact that no body has ever turned up. Perhaps the California Court of Appeals put it best:

The fact that a murderer may successfully dispose of the body of the victim does not entitle him to an acquittal. That is one form of success for which society has no reward. *People v. Manson*, 71 Cal. App.3d 1, 42, 139 Cal. Rptr. 275, 298 (1977), cert. denied, 435 U.S. 953 (1978). (Yes, *that* Manson).

Stephen Epperly was one of those people who mistakenly thought he could get away with murder if he disposed of the body. Instead, Epperly was brought to justice by a plethora of circumstantial evidence tied up very neatly by the leash of an amazing four-legged detective.

Gina Hall, 18, was described as a "very beautiful, well-dressed, pleasant, soft-spoken" young woman who was popular with her peers, respectful of her parents and close to her older sister, Diana, with whom she was living in Radford, Virginia during the summer of 1980. It was late June and the sisters were taking summer classes at Radford University, where Gina was a freshman and her sister was in graduate school.

Gina loved to dance and was quite athletic, friends and family recalled. She may have liked an occasional glass of wine, but she did not smoke or use drugs. In short, Gina was "a very happy person." She certainly was not the sort to simply disappear. When Gina was very little girl, she was seriously burned and had scars on her right side from her upper arm to her thigh. She was self-conscious about these scars and while she was friendly and outgoing, her self-consciousness kept her from becoming physically intimate. Gina's sister would later testify that she was extremely concerned about how the scars would affect a man's feelings for her and as a result, "she could not have handled the emotional stress of a physical relationship with somebody and never put herself in that situation." In addition, she had expressed concern about becoming pregnant because of her skin grafts' lack of elasticity.

The reason for revealing intimate facts about an innocent victim will become evident shortly.

Gina had just finished summer midterms and was in a "great mood," her sister recalled. She wanted to go dancing but Dlana said she was too tired. Instead, Dlana lent her sister her brown Chevrolet, and watched as her 5-foot-tall sister adjusted the seat as far forward as it would go before she headed out to the Marriott in Blacksburg, Virginia for a night of music and dancing.

It was about 10 p.m. Saturday, June 28, 1980 and it was the last time she ever saw Gina.

Stephen Epperly and his friend, Bill King had known each other since they were children. They were part of a group of people, including Gina Hall, who met up at the Marriott that Saturday night, although neither Epperly nor King had ever met Gina before. King's mother and stepfather had a home on Claytor Lake nearby, and the two men had stopped there earlier to check on things at the request of King's parents.

Epperly and Gina hit it off pretty well at the Marriott, dancing four or five songs. As the evening wore on, Epperly asked King if he could borrow King's car and the keys to the lake house, but King needed the car and wouldn't let Epperly take it. He was welcome to use the house, but Epperly would have to find his own way there.

Because a group of people were dancing that night, Gina mistakenly assumed that when Epperly asked if she wanted to go for a midnight swim, he meant that more than just the two of them would be going, King later told police.

"She seemed confused as to what car was going and exactly who was going," he testified. "I think that when she came out she thought maybe" there would be more people going.

Instead it was just Epperly and her.

Several hours later, King and another woman decided to head to the house for a swim. When the couple arrived, they saw Gina's Chevy in the driveway, but no lights on in the house.

They didn't want to surprise anyone, so when they entered the house they slammed the doors and turned on the kitchen light, hopefully giving Epperly and Gina — if they needed it — time to compose themselves.

Epperly called out, "Bill, is that you?"

King replied that it was and that he and his date were going swimming. Epperly said, "She's got to be getting back," and indicated that "they" were leaving.

The woman with Bill King saw Epperly standing without his shirt, drying himself with a towel.

Neither King nor the woman saw or heard Gina that night.

Around 7 a.m. Sunday morning, a patrol car spotted the brown Chevy parked near a railroad trestle that crosses a river outside Radford. The trunk was open. Because this was a popular fishing site, the officer didn't suspect foul play, but when almost 18 hours later, when the deputy sheriff cruised by again and the vehicle was still in the same position, he ran the plates. The car was registered to Dlana Hall and had not been reported stolen.

Shortly after the deputy came across the abandoned Chevy, Epperly returned to the lakefront house and while King was outside playing with his son, asked if he could go inside for a drink. King later told authorities that he thought his friend remained inside for an unusually long time and remarked about it. Epperly shrugged it off.

That night, Dlana, concerned for her sister, called a couple of friends who went out looking for Gina. They found the car where the deputy had seen it and called police. The friends who found the car thought it was especially curious that the seat was pushed back all the way, since "Gina was a little girl."

The media took hold of the story of the missing co-ed by mid-week, reaching King and Epperly on Tuesday, July 1. King went to where Epperly was working and advised him to go to the police to report his encounter with Gina, "so they wouldn't think he had anything to hide."

Of course, Epperly did have something to hide, so he asked King who he had talked to about the missing girl. He was non-committal about his intention to go to the police.

Later that day, Epperly talked to another friend whose brother was an attorney. Out of the blue, Epperly asked his buddy if his brother might "represent him." He then asked his friend to inquire "if there was anything that they could do to him if they didn't find a body."

King went to the police the next day with his information and brought them back to his parents' home. There they found a broken ankle bracelet Gina wore.

Epperly told police when he was interviewed for the first time that he had driven Gina from the nightclub to the lake house. He said he heard her call her sister to tell her that she would be home in the morning. He said they went to the dock and that he went swimming but that Gina did not. He admitted that "they had kissed some," but said that Gina told him she would have to know him very well before she would sleep with him.

According to him, they left the house and Gina dropped him off in Radford. He went to bed and never saw her again.

As the days went by, Epperly and King talked more about Gina. At one point, King asked point-blank if Epperly killed her. "Bill, I don't know anything about it," Epperly replied. "We'll just have to wait and see."

By this time, the Radford police had a warrant to examine the lake house. They discovered bloodstains on the driveway, on a walkway leading to the lake, and inside the house.

The interior of the home had been meticulously cleaned, but not sufficiently to escape the criminalists who scoured the scene. They found blood and hair on a golf shoe, blood on a dustpan, and blood and hair in the gasket on a refrigerator door. A large bloodstain, more than a foot across was found inside the living room and had been bleached out to a faint pink. Testimony later showed that there had never been bloodstains in those locations before.

Searchers looking for Gina discovered a blue blood-stained towel near where the Chevy had been found. It contained fibers consistent with those found in the carpet at the lake house.

King's mother later identified it as one that was missing from the home.

Nearby, a policeman found one of Gina's shoes at the opposite end of the trestle from where the car and the towel were found.

Two weeks later, other searchers found all of the clothes Gina had worn the night she vanished. The clothes were tied in a bundle and were bloodstained.

Forensic testing showed that all of the blood on the recovered evidence was human type O, the same as Gina's. The hair found in the golf cleat was identified as a human pubic hair; it did not match Epperly, who had now officially become a suspect.

In the trunk of the Chevrolet, criminalists found type O blood and head hairs similar to the ones found on a hairbrush used by Gina. The blue towel also contained Type O blood and held six hairs similar to Gina's.

On the bundle of bloody clothes, forensic scientists found a head hair similar to Epperly's.

The most amazing circumstantial evidence that pointed to Epperly's involvement in Gina's disappearance came with the arrival of a tracking dog owned by John Preston, a retired Pennsylvania State Trooper who was qualified as a dog tracking expert in courts in 17 states. Along with his German Shepherd, he had worked more than 150 criminal cases across the United States.

Preston and his dog arrived a week after Epperly had first been accused by police of having killed Gina, but the ex-trooper was not told by Virginia authorities that they had a suspect. Neither Preston nor the dog had ever been to the Radford area before.

Police secured a warrant for an article of Epperly's clothing. Then Preston and the Virginia authorities returned to where Gina's car had been left and let the shepherd acquire the scent from the clothing. The dog then began what is known as a "casting search," passing back-and-forth in an ever-widening arc in an attempt to pick up the scent.

The dog picked up the suspect's smell about 100 yards from where the Chevy had been found.

He left the road and headed up a grade toward the railroad trestle and started walking along the tracks.

The dog led his handlers on a roundabout tour of Radford, touching each location where searchers had found the items related to the missing girl. Preston would later testify that the dog indicated the scent had "paused" at three locations as if the person had spent some time at each point. The pauses occurred at each place searchers had recovered evidence.

From the railroad tracks the dog followed the trail through a box factory, a railroad switching yard and across the parking lot of the New River Valley Shopping Plaza, and by a self-serve car wash.

Finally, the dog entered a subdivision, walked up to the front door of a house and sat down.

The dog stopped on the front porch of Stephen Epperly's home.

The next day, the dog was again given Epperly's scent and introduced to six blue towels including the one that had been found near Gina's car. The dog immediately sat down in front of the blue towel found by searchers in the wood. That towel not only contained blood of the same type as the missing girl and carpet fibers consistent with those found at the beach house, it also apparently contained a scent consistent with Epperly's clothing.

Stephen Epperly was being interviewed by Radford police at the station the next day when Preston and the dog showed up.

While the suspect was inside, the dog was "scented" on the blue towel. The dog poked around the parking lot, which contained several other cars, and stopped at the driver's side door of Epperly's car.

The dog then picked up the trail from the car to the police station and came directly to the door of the interrogation room where the suspect was sitting.

After the Radford police told Epperly what the dog had done, he put his head down in his arms and said over and over "That's a damn good dog."

Epperly was indicted and tried for first degree murder. Gina's body was never recovered, which required the state to prove both that she was dead and that her death had resulted from a criminal act on the part of Epperly.

Furthermore, to sustain a conviction of first degree murder, the state had to demonstrate that Epperly had the specific intent to kill.

The State of Virginia presented its case to the jury, pointing out Gina's sudden disappearance, the evidence at the lake house of a violent struggle, the pains the killer made to hide the evidence by disposing of her clothes and the bloodstained towels, Epperly's discussions with his friends, and the unimpeachable evidence of the tracking dog. These circumstances, taken together, indicated, in the state's view, that Gina Hall had been murdered and that Stephen Epperly had killed her.

The jury agreed and convicted him of first degree murder. On appeal, the verdict and the life sentence were affirmed.

8 comments »

1. VERY ACCURATE ARTICLE. GINA'S BODY WAS NEVER RECOVERED! SHE IS STILL VERY MUCH MISSED BY HER FAMILY AND WILL NEVER BE FORGOTTEN!

Comment by COUSIN OF GINA HALL — 12/30/2005 @ 12:40 am

2. Is Epperly still in prison? Did the police feel the body was disposed of at the Claytor Lake site?

Comment by Martha Perdue — 8/30/2006 @ 12:40 pm

- 3. Is Epperly still in prison? Did police feel the body was disposed at Claytor Lake?

Comment by Martha Perdue — 8/30/2006 @ 12:41 pm

- 4. I just got out of the Marines in January 1980 and was living in Christiansburg and attending NRVCC majoring in Criminal Justice. I definitely remember this case and my ncle and I went to the courthouse (Pulaski County, I believe) and sat in on testimony one day. I can still remember the smerk on Epperly's face throughout the trial. He appeared confisident that he was going to get away with that henious crime. It was a relief to see justice done. Perhaps one day he will reveal where Gina's body is for her family's closure.

Comment by Gene Furrow — 10/7/2006 @ 6:19 pm

- 5. I remember Gina. We went to school together, she was in a grade lower than I was. We were not close, but we were friends. she was beautiful, smart and had her life's dreams ahead of her. I remember how sorry and sad I was to hear she was dead. So young, what could have happened, a car wreck, and to learn how she might have died at this evil sick monsters hands, I was in shock, angry and sick at the same time. Such a beautiful life taken so needlessly, so violently. I hope that Steven Epperly will some day have the guts and courage to tell Gina's Family where she is and what he did to her.

You are right where you need to be, locked up like the animal you are. Judgement day is coming for you. Will you tell the truth then, COWARD!!

Comment by S.Jones — 10/19/2006 @ 1:36 am

- 6. Gina Hall,I have read the words of the brutality aand horror you went through that night in July of 1980 resulting in your untimely parting from this earth. I vow to attempt a search for your remains so you can finally have a decent burial and your family can have closure,godbless you Gina Hall,and godbless your family.

Comment by Jim Robinson — 3/6/2007 @ 2:23 am

- 7. Reference Gina Hall,correction,June 28th,1980 when you went missing,Godbless.

Comment by Jim Robinson — 3/6/2007 @ 3:08 am

- 8. I was preparing to write a letter to the Virginia Parole Board and was curious as to what I would find if I typed in Stephen Epperly's name? I found this article. It is very accurate.He is now up for parole, again, and our family is having to relive all of this as we write to the board to justify why he should not be released.

Comment by cousin of Gina Hall — 4/4/2007 @ 12:39 pm

Gotta Beef?

Name (required)

Mail (will not be published) (required)

Website

that are seen during a hearing by the Federal Means Committee. The committee is to resume construction proposals would cost \$1.5 billion a year, the cost of rebuilding and bridges — the cost of transit. The program is widespread for the main thrust are various shades of opposition that the committee is to eliminate. The program wants Congress to act by Dec. 17, the date of the bill. Lewis wants to make changes to the program. Rostenkowski, D-III, says it is difficult to expedite as you go. The program or problem areas is to increase the cost of the program.

Robb, considered a possible vice presidential candidate, said Democrats stand a better chance in 1984 by nominating a moderate-conservative — a label he uses to describe himself. Kennedy is a liberal. "It doesn't have any impact on me personally," the governor said Wednesday of Kennedy's move. "I thought I made that clear. I am not a candidate for the office." See KENNEDY, Page A2

more than 300,000 jobs — more than half of them in the recession-wracked construction and building industries. Lewis said the administration "is working with the six states that have problems with matching funds" and plans to make modifications in its proposal this week to reflect the changes. "We don't plan to put money out there and not have states be able to spend it," he said.

Abingdon, the certified winner in the election. Wampler sought the recount after alleging voting irregularities may have contributed to his 1,123-vote defeat on Nov. 2. Wampler attorney Bill Hurd said that more than 30 two member teams will recheck returns at precincts across the district. He said returns See NINTH, Page A2

Attorneys claim defense proper

By DEE ANN LINDSEY
Staff Writer

David Warburton, one of the defense counselors for convicted murderer Stephen Epperly during the 1980 trial stands by his previous statements that Epperly was given the best defense available. Warburton stated, "I and my partner, (Glenwood Lookabill) are disappointed that Mr. Epperly has chosen to claim ineffectual counsel in his appeal to the federal court."

"I have no regrets about his defense and it was the best available at that time. I don't think Epperly wants to open the can of worms on how and why he was represented the way he was," stated Warburton.

The Virginia Supreme Court, when rejecting Epperly's appeal, referred to an energetic and effective defense presented by the court appointed lawyers. Epperly is the first Virginian ever convicted of first degree murder where a body has never been found.

In June 1980 Gina Renee Hall went out for an evening of dancing in Blacksburg, and never returned. Epperly was eventually charged with her murder and convicted in a Pulaski County Circuit Court in December 1980.

At the time of the trial Epperly's attorneys Warburton and Lookabill requested a change in the location of the trial, which was denied.



DAVID WARBURTON
'No Regrets'



WOODY LOOKABILL
'Disappointed'

Hardees restaurant planned for Dublin

A Hardee's fast-food restaurant is planned for Dublin. Earlier this week the town planning commission met and gave their approval to the business. According to Don Anderson, a member of the Dublin planning commission, all of the company plans seem in order.

There were no complaints and the restaurant will be in an area zoned for business. The restaurant will be located on Route 100 near the Ranch House, and Anderson believes there will be enough business to go around. "It might hurt some of the other businesses for a while, but I think with

Warburton and Lookabill also requested testimony from the trainer of a tracking dog be thrown out and made several motions for the court to declare a mistrial, all of which were denied. Epperly, when he appealed to the Virginia Supreme Court, asked for new attorneys, Max Jenkins, Radford, and Keith Neely, Christiansburg, were appointed. Earlier this week Epperly filed a petition for a writ of habeas corpus which was a petition requiring those detaining someone to justify it. According to Jenkins, Epperly is contending that the evidence was not sufficient to convict him, and that he was not competently represented. Jenkins expects a decision on the petition to be made in U.S. Federal District Court in Roanoke in about one month. Epperly, a Radford native and former Virginia Tech football player, is currently serving a life prison term for the murder.

The new business will also mean some additional employment, and the town will gain some funds through construction permits, and business taxes. the Community College, and Dublin Garmet, plus the traffic on Route 100 there will be enough to go around," said Anderson.

ve

from the class, students had to a grade of 70 on test earnings training. The class dealt with techniques for the received training in of corrections work anization of the corrections, inmate ing prisoners, first se, how to handle ers, escapes, the system, hostage and d the Freedom of Iso learned of the role and Commonwealth's ee POLICE, Page A2

rent county administration building as a human services building that would include social services and the health department, and using the courthouse for court services. Phillips said that he thought it this might be a more efficient way to consolidate services to the public and to cut down on redundant facilities.

Reynolds noted that this would just be an issue of "who goes where," that it

would still require renovations to the county administration building but wouldn't really change any costs.

Board of Supervisors Vice-Chairman Frank Conner said he thought that Phillips' idea made a lot of sense.

County Administrator Pete Huber said that more thought could be given to configuration and who goes where, but the two main decision-making points that night were whether or not

the two boards should locate and if the Shade Plaza needed to be purchased.

Reynolds noted that would basically be the same however they would have to configure things, the Maple Shade Plaza definitely a good buy at a good price, that it would have adequate parking that it was out of the way plain and the overall issue within the county would be sufficient.

Bain said that the reason he had had trouble working with other counties is that Pulaski is a somewhat isolated county to work with because of the fact that their services are out instead of being in a convenient place. In Carroll County as an example, noting that all county services are in one location, which is a "dream" for a citizen. He added that the Shade Plaza could be

Epperly

Continued from page 1

Marriott in Blacksburg on June 28, 1980. Evidence suggested Hall went with Epperly to a home on Claytor Lake that belonged to the parents of one of Epperly's friends.

It was at that home that Epperly murdered Hall, disposed of her body somewhere and then abandoned her vehicle along Hazel Hollow Road near a railroad trestle. A tracking dog later was able to link Epperly to the car and pieces of Hall's clothing found in various locations.

Epperly appealed the conviction, but the appeal was denied. He continues to maintain he is innocent of the crime.



SWT File Photo

Stephen Epperly

Drought

Continued from page 1

available to the board at this point:

- Increase the adopted rates

to offer any other possible options for discussion Thursday. However,

SHOW YOUR **S**

**Come In
Office All
Up Your
Spirit
Today For**



Epperly denied parole again

By MELINDA WILLIAMS
Staff Writer

RICHMOND — It's been over 20 years since Stephen Matteson Epperly was sentenced to life in prison for the murder of a Radford University freshman, whose body has never been found.

This past June, Epperly came up for parole. But the Virginia Parole Board, as it has in the past, once again refused to grant the request citing the serious nature and circumstances of the crime.

The case was deferred for another three years, at which time Epperly will once again be considered for parole.

According to the Virginia Department of Corrections website, Epperly, now 55 years old, is being held at Bland Correctional Center.

Epperly was convicted of the first-degree murder of Gina Renee Hall. The case is one of only a handful nationwide in which a person was convicted of murder without witnesses or a body.

According to evidence in the case, Epperly met Hall in a nightclub at the

See **EPPERLY**, page 5



Natural beauty

A clear blue sky provides the perfect backdrop to the reds, oranges and yellows of a maple tree. It won't be long before the colors of fall are swapped for the starkness of winter.

Drought leads to

By MELINDA WILLIAMS
Staff Writer

FAIRLAWN — It's not uncommon for a

make up for revenue deficits caused by the drought.

According to Clarke Wallcraft, executive director for Pepper's Ferry, revenue deficit

December 19, 2012

The Honorable Colin R. Gibb
27th Judicial Circuit Court
Pulaski County
45 3rd Street, N.W., Suite 101
Pulaski, VA 24301

RECEIVED
JAN 25 2013
AND FILED
PULASKI COUNTY CIRCUIT COURT
MAETTA H. BREWE

Dear Judge Gibb:

The court may or may not be aware, but presently there are no uniform standards regulating how biological and other evidence is retained in criminal cases throughout the United States. The news media has reported the National Institute of Justice is funding the development of consistent, mandatory guidelines for evidence retention by Federal, state and local authorities. Uniform standards regulating how biological evidence is stored in criminal cases will be a crucial step in proving some individuals were wrongly convicted and are innocent. Some of the legislation, which is being drafted, calls for all biological evidence to be retained as long as the convicted prisoner remains in custody or on probation or parole. Scientific expertise to analyze evidence cannot be done if the evidence is missing, contaminated or mishandled.

The value of DNA analysis in identifying errors in the criminal justice system is a critical factor in upholding the integrity of the courts by subjecting all biological evidence to indisputable scrutinies, which conclusively prove a matter one way or the other.

I was convicted of first degree murder on December 16, 1980, in the Circuit Court of Pulaski County. The evidence presented against me was totally circumstantial. Moreover, former Commonwealth's Attorney, Mr. Everett P. Shockley, directly and personally participated in manufacturing fabricated evidence against me during the process of the investigation. Mr Shockley also

knowingly and consciously presented perjured testimony to my grand jury and my trial jury. Mr. Shockley also failed to notify my trial and appellate counsel of evidence that was planted during the investigation at the direction of a retired Virginia State Trooper by a convicted felon. Although this evidence was not presented during the trial, it may be linked to other evidence and prove violations of the law by the prosecution and law enforcement.

Once Mr. Shockley had actual knowledge of this unlawful act and possibly others, he was obligated to notify the court and my counsel, but he chose a cover-up! Approximately 300 yards from the location of this illegal plant, other major incriminating evidence was located and later presented for the jury's consideration. Neither the retired Virginia State Trooper nor the convicted felon were ever questioned about their "SPECIAL RELATIONSHIP", or if they planted other evidence or had knowledge of other evidence being planted. I cannot contest these "CONSPIRACIES" involving Mr. Shockley, the Virginia State Police, the Virginia Attorney General's Office, a former dog handler and others, as I do not have the monetary capabilities to employ competent legal counsel and investigators. Due to these unlawful and unconscionable acts by Mr. Shockley and others, a fair trial was inconceivable.

MY MOTION or REQUEST: Please consider issuing an O-R-D-E-R from the Circuit Court directing the Clerk of the Circuit Court of Pulaski County, to do a comprehensive and thorough search for "ALL EVIDENCE" which was gathered and secured during the investigation against Stephen M. Epperly. This request encompasses all human, animal, biological and nonbiological

evidence presented to the different laboratories participating in the examination and testing of each article. My request includes all of the Commonwealth's exhibits presented during the trial such as photographs, maps, credentials of the dog handler, Mr. John M. Preston, and his tracking dog. Hopefully your O-R-D-E-R will direct all parties who have possessed or presently possess evidence to fully cooperate in this search. This would include the Clerk's Office, the Pulaski County Commonwealth Attorney's Office, Mr. Shockley, law enforcement, forensic science laboratories and others. It is my assumption the Clerk of the Circuit Court is in charge and responsible for the custodial care of evidence presented in all major felony cases. Hopefully, all or most of the evidence may be confirmed to exist. To the best of my knowledge, the trial court never ordered the donation or destruction or return of any or all of the exhibits received in evidence during my trial. The different laboratories returned to the different law enforcement agencies all the evidence which was submitted to them after their testing and results were compiled as stated on their analysis summations. The different law enforcement agencies should have then complied with the standard of returning the evidence and laboratories' results to the Clerk's Office, to secure the integrity of the chain of custody.

I am not seeking an O-R-D-E-R to reinstate my case on the active docket at this time and hopefully the court will not require this action.

To facilitate my request of the court and the Clerk's Office, I have attempted to be precise in explicitly asking for each independent article, with direct references made to all or most of the evidence. There were 97 Commonwealth exhibits

The Honorable Colin R. Gibb
December 19, 2012
Page 4 of 7

presented during the trial and at least 79 specimens of evidence submitted to the different laboratories for analysis. (Please see enclosed.)

Sadly, my court-appointed counsel did not secure the services of competent forensic experts after my many requests to do so. If they had, the result of the proceeding would have probably been different. Present state-of-the-art scientific analysis could conclusively prove several of the major unanswered and/or controversial questions definitively.

I request a copy of Gena Renee Hall's medical records from the University of Virginia Hospital, which I have never seen. (This is Commonwealth's Exhibit No. 62.) Individuals who have reviewed these records have stated Gena Hall only received a blood transfusion of type O blood. If this information is correct, this does not prove Ms. Hall positively tested for type O blood. I understand type O blood can be transfused to certain individuals who do not have type O blood. This secret stipulation between the Commonwealth Attorney's Office and my appointed counsel proved to be devastating! I only learned of this stipulation as I sat in the courtroom when Mr. Shockley introduced it into evidence. At that time, I had no idea of the major ramifications which this irresponsible stipulation would produce. My appointed-counsel neither discussed Ms. Hall's records nor this stipulation with me previous to the trial. If they had, I would have never approved of this voluntary agreement and controversial question, as it is not supported by science! Mr. K. Mike Fleenor, Jr., Commonwealth Attorney of Pulaski County, should have a copy of Ms. Hall's medical records in his files or the University of Virginia Hospital should have these documents. In the event these records have disappeared, as have many other documents in

The Honorable Colin R. Gibb
December 19, 2012
Page 5 of 7

my file, members of Ms. Hall's family may be tested for DNA matches. (Please review Mr. Shockley's letter to my appointed attorneys dated December 1, 1980, and page 662 of the trial transcript which addresses this issue. (Both documents are enclosed.)

A large portion of the evidence I seek contains blood, hairs, fibers, saliva and stains. There were numerous examinations which could have been performed in 1980, but were neglected by the Virginia State Laboratories. Again, no other forensic experts exclusive of Commonwealth professionals have ever tested this evidence.

If certain items of evidence can be located, testing could prove some of the outstanding questions. (1.) Does all of the blood found during the investigation belong to the same individual? (2.) Do Gena Hall's medical records indicate the identical type of blood found during the investigation on numerous pieces of evidence? (3.) Is animal blood mixed in with the other blood which was inconclusively identified by the Commonwealth's expert? The state's experts Ms. Patricia Perdon Hamby and Mr. Robin Darrell Porter also gave some conflicting testimony. Why did the state's forensic experts fail to list the marijuana roaches which were tested and positively indicated a secretion type? The roaches were found in the Hall vehicle ashtray debris. There are many questions which remain.

The court should also be advised that the entire trial transcript of my trial has been stolen, lost or misplaced from the Clerk's Office when these documents were under lock and key! I understand the Clerk's Office presently has possession of

The Honorable Colin R. Gibb
December 19, 2012
Page 6 of 7

the audio record of my trial. I do not request a copy of this transcript, as I know where one may be located, but I wonder how this breach of security took place. Also, my Habeas Corpus Hearing which was held in the Radford Circuit Court by the Honorable Duane Mink on July 16, 1986, has been compromised. Certain sections of the written transcript which proved to be incriminating for the prosecution have been surgically removed and the entire audio record has been stolen, lost or misplaced! Neither the first incident nor the second were ever investigated by any authority. Wonder why?

Hopefully my request is not an imposition on the court or the Clerk's Office. I realize the passage of time is extreme in this case, but I believe it is never too late for justice! I am innocent and have absolutely no knowledge as to the disappearance of Gena R. Hall. If certain evidence can be located and tested with state-of-the-art analyses, I believe it is possible the perpetrator(s) of this crime may be identified and/or the individuals who falsely incriminated me will be recognized. I simply need to know if the evidence can be located for testing or it is unaccountable.

I trust your judicial wisdom in consideration of this important request. The court's power to apply the law by the exercise of judgment and discretion in deciding these matters are greatly appreciated. If the court desires to modify this request please do so. Thank you very much for your consideration and I pray the court will grant my motion.

PLEASE FIND ENCLOSED: Exhibits: (A.) A copy of the TRIAL INDEX, Title page 1, 2-a, 2-b, 2-c, 2-d, 2-e, 2-f, 2-g, (8-pages); (B.) Commonwealth Exhibits Numbers one, (1) through ninety seven,

The Honorable Colin R. Gibb
December 19, 2012
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(97), (2-pages); (C.) Laboratory Item Numbers one, (1) through seventy nine, (79), (3-pages); (D.) Letter dated December 1, 1980, from Mr. Everett P. Shockley to Messrs. Lookabill and Warburton, (1-page); (E.) Trial Transcript P. 662 addressing this stipulation, (1-page); (F.) Additional TRIAL INDEX, Title page 1 of Mr. John M. Preston's trial testimony, pages 2, 26, 27 and 28, (5-pages).

Sincerely,



Mr. Stephen M. Epperly, #1106705
Bland Correctional Center
256 Bland Farm Road
Bland, VA 24315-4960

Enclosures:

1 VIRGINIA: OF THE CIRCUIT COURT OF PULASKI COUNTY

2
3 COMMONWEALTH OF VIRGINIA

4 v

5 STEPHEN MATTHESON EPPERLY,
6 Defendant

7
8 Stenographic report of all the testimony, together with the
9 motions, objections and exceptions on the part of the respective
10 parties, the action of the Court in respect thereto, and other incid-
11 ences of the trial of the case of Commonwealth of Virginia v.
12 Stephen Matteson Epperly, Defendant, tried at Pulaski, Virginia,
13 on December 10, 11, 12, 15, 16 and 19, 1980, before the Honorable
14 R. William Archer in the Circuit Court of Pulaski County, Virginia.

15
16 APPEARANCES:

17 Everett P. Shockley, Esq. and
18 Francis C. Terwilliger, Esq., Attorneys
for the Commonwealth

19 R. David Warburton, Esq. and
20 R. Glenwood Lookabill, Esqs.,
Attorneys for the Defendant

21 Stephen Matteson Epperly, in person
22 and by counsel

23
24 Recorred by:
25 Miss Elinor E. Williams
Court Reporter
26 780 S. 4th Street, Apt. 1
Wytheville, Virginia 24392

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- Comm. ex. 66 Hair from curlers
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- Comm. ex. 82 Hair from refrigerator door
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- Comm. ex. 86 Hairs from white pants, stripped towel and purple body suit
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- Comm. ex. 96 Debris from blue towel fabric
- Comm. ex. 97 Fibers from refrigerator door

LABORATORY ITEM NUMBERS

- Item 1 Carpet from Hall trunk automobile
- Item 2 Stain from area under carpet
- Item 3 Stain on leg of chair near sliding glass door
- Item 4 Stain on light, first floor bathroom
- Item 5 Hair found on basement steps carpet
- Item 6 Hair on bracelet
- Item 7 Stain from side of chair near sliding glass door
- Item 8 Stain from light switch, first floor bathroom
- Item 9 Stain from cabin driveway
- Item 10 Burned cloth from cabin trash burner
- Item 11 Stain from carpet in front of sliding glass door
- Item 12 Stained fibers from carpet in front of sliding glass door
- Item 13 Stain from walk in front of sliding glass door
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- Item 17 Stained, plastic pitcher
- Item 18 Stained, yellow dustpan
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- Item 22 Hair sample from S. E. Bodner
- Item 23 Hair sample from D. J. Hall
- Item 24 Small, white handled, hair brush
- Item 25 "Clairol" hair curlers
- Item 26 Large, white handled, hair brush
- Item 27 Stain from trunk
- Item 28 Cigarette butt from auto ashtray debris
- Item 29 Stain from faucet handle, first floor bath
- Item 30 Hair found on basement steps carpet
- Item 31 Stained refrigerator door
- Item 32 Crowbar

Laboratory Item Numbers continued
Page two, (2)

- Item 33 Brown envelope containing MISC. items found on road from victim's handbag
- Item 34 One (1) set of fingerprints of Stephen Epperly
- Item 35 Brown high heel shoe belonging to victim
- Item 36 Pulled head hair sample from D. J. Hall
- Item 37 Pulled head hair sample from S. E. Bodmer
- Item 38 Wood chips from dock at Ron Davis home
- Item 39 Blue towel
- Item 40 Wood chips from south end of trestle
- Item 41 Wood chips from area "1/3 way across" trestle
- Item 42 Wood chips from area "1/2 way across" trestle
- Item 43 Wood chips from north end of trestle
- Item 44 Pulled body hair sample from the suspect
- Item 45 Pulled head hair sample from the suspect
- Item 46 Blood sample from the suspect
- Item 47 Pulled pubic hair sample from the suspect
- Item 48 Saliva sample from the suspect
- Item 49 Portion of trousers
- Item 50 Portion of carpet from Davis (King) cabin
- Item 51 Wood chips from various places on trestle
- Item 52 Match stick
- Item 53 Black work shoe from suspect's closet
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- Item 60 White panties
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- Item 63 White jacket

Laboratory Item Numbers continued
Page three, (3)

- Item 64 Blue and white stripped bath towel
- Item 65 (A.) Mattock
(B.) Debris from Mattock
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(B.) Hair found on this cap
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- Item 68 Surface soil from area where mattock was found
- Item 69 Surface soil from area where clothing of victim was found
- Item 70 Latent impressions lifted from trunk interior of Hall
vehicle
- Item 71 12 - head hairs of Mrs. Betty Mitchell Davis
- Item 72 Knife with black handle
- Item 73 Chaise lounge cushion
- Item 74 One (1) man's golf shoe (right), brown in color
- Item 75 Black patent leather men's shoes
- Item 76 Blue men's double knit trousers
- Item 77 Brown men's shoes
- Item 78 Piece of towel material
- Item 79 Pair of light green men's double - knit slacks

Exhibit (D.)

OFFICE OF THE COMMONWEALTH ATTORNEY
PULASKI COUNTY, VIRGINIA

45 3RD STREET, N.W.
PULASKI, VIRGINIA 24301

TELEPHONE
(703) 980-0546

FRANCIS C. TERWILLIGER
ASSISTANT COMMONWEALTH ATTORNEY

EVERETT P. SHOCKLEY
COMMONWEALTH ATTORNEY

December 1, 1980

Mr. R. Glennwood Lookabill
Mr. R. David Warburton
Attorneys at Law
P. O. Box 1506
Pulaski, Virginia 24301

Re: Commonwealth v. Stephen Matteson Epperly

Dear Woody and Dave:

I have given you medical records from the University of Virginia Hospital showing that Gina Hall's blood is type O. You have indicated to me that you would stipulate these records into evidence so that the custodian of the medical records will not have to attend trial from Charlottesville. I have telephoned the custodian, Jeanette Wilkins, and informed her of this development and told her that she would not have to attend the trial. As I also mentioned on the telephone, we plan to exhibit a survey prepared by Lloyd Mathews and some aerial photographs of the Hazel Hollow Road area. While the survey is to be enlarged in Roanoke the week of December 1st, I would imagine that Lloyd would have a copy to show you should you so desire. The aerial photographs are in the custody of Special Agent Wilmore in Wytheville and by copy of this letter I am advising him to please allow you to look at the photographs should you wish to do so.

Thank you for your cooperation with respect to Miss Hall's medical records.

Sincerely yours,


Everett P. Shockley

bat

cc ✓ Mr. Gerry J. Atkinson, Clerk
Special Agent Wilmore

Received and filed, this the 1st
day of Dec, 1980
Murray H. Atkinson Clerk
Pulaski

71

1 the courtroom.)

2 MR. SHOCKLEY: Your Honor, the Commonwealth would call as our
3 next witness Mrs. Jenette Wilkins. Mrs. Wilkins is the custodian
4 of the medical records at the University of Virginia Hospital in
5 Charlottesville. I obtained from her certain medical records on
6 Gina Renee Hall. I've provided copies of these to defense counsel
7 and they agreed to stipulate that these were the medical records
8 in lieu of having Mrs. Wilkins here to testify and we would intro-
9 duce these medical records to show that Gina Hall has Type O
10 blood. We would offer these medical records as our next exhibit,
11 Your Honor.

12 THE COURT: All right, let the exhibit be received and
13 marked.

14 MRS. PATRICIA PERDON HAMBY,
15 a witness called on behalf of the Commonwealth, after being first
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SHOCKLEY:

19 Q State your name, please.

20 A Mrs. Patricia Perdon Hamby.

21 Q And Mrs. Hamby, where do you live?

22 A I live in Joilet, Illinois.

23 Q And how long have you lived in Illinois?

24 A Since the first of November of this year.

25 Q And where did you live prior to that date?

26 A In Roanoke, Virginia.

DOG TRAINER EXCERPT

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VIRGINIA: IN THE CIRCUIT COURT OF PULASKI COUNTY

COMMONWEALTH OF VIRGINIA

v.

STEPHEN MATTESON EPPERLY,
Defendant

Stenographic report of the testimony of John Preston, from the trial of the case of Commonwealth of Virginia v. Stephen Matteson Epperly, Defendant, tried at Pulaski, Virginia, on December 12, 1980, before the Honorable R. William Arthur in the Circuit Court of Pulaski County, Virginia.

APPEARANCES:

Everett P. Shockley, Esq. and
Francis C. Terwilliger, Esq.,
attorneys for the Commonwealth

R. David Warburton, Esq. and
R. Glennwood Lookabill, Esq.,
attorneys for the defendant

Stephen Matteson Epperly, in
person and by counsel

Reported by:
Miss Elinor E. Williams
Court Reporter
780 S. 4th Street, Apt. 1
Wytheville, Virginia 24382

1 I N D E X

2	COMMONWEALTH WITNESSES	DIRECT	CROSS
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4	(Before jury)	63	90

8 EXHIBITS

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10	Commonwealth's Exhibit No. 56, American pedigree		27
11	Commonwealth's Exhibit No. 57, American Registration Certificate		28

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1 MR. WARBURTON: Thank you, Your Honor.

2 MR. SHOCKLEY: Where is the copy of the pedigree?

3 THE COURT: Here it is.

4 MR. SHOCKLEY: Your honor, I would like to offer that into
5 evidence as well. Your Honor, does your ruling pertain to the--

6 Q Again Mr. Preston what is on these four pages?

7 A That is the certified German pedigree of the dog with
8 each of his ancestors, their degrees and going all the back to--

9 Q You say "certified", can you show me where the certifi-
10 cation is?

11 A Yes, sir, the certification is right here.

12 MR. SHOCKLEY: Your Honor, we would offer that in to show the
13 pedigree of this particular dog. It is a certified record.

14 THE COURT: Is that a different document from this?

15 MR. SHOCKLEY: Yes, sir.

16 THE COURT: Well, this is a pedigree, too.

17 MR. SHOCKLEY: Well, that's the American pedigree. This
18 would be the German pedigree.

19 MR. WARBURTON: Your Honor, as to the German pedigree it
20 has the hearsay objection which I formerly voiced and I also have
21 another objection. It's in German and it's absolutely worthless
22 to any of us here in the courtroom as far as I know. I can't even
23 cross examine the man on what that may be.

24 THE COURT: All right, I shall sustain the objection as to
25 the German pedigree.

26 I understand there is no objection to the American pedigree?

Preston - Direct

27

1 MR. WARBURTON: Assuming that the foundation has been laid.

2 THE COURT: All right, let me see this, Mr. Clerk.

3 MR. SHOCKLEY: Do you need to mark this.

4 THE COURT: No, you can let her--well, do you want to make it
5 a part of the record?

6 MR. SHOCKLEY: Yes, sir.

7 THE COURT: Well, let her mark it, assign it a number and
8 then I'll mark it refused at the proper time.

9 MR. SHOCKLEY: The Judge needs to tell you that. She wanted
10 to know if you wanted to continue on with our numbering or assign
11 it a different number.

12 THE COURT: Oh, that will be all right, just continue. It
13 doesn't make a bit of difference. Just continue on will be all
14 right.

15 MR. WARBURTON: Your Honor, as to the American pedigree, I
16 believe Mr. Preston has testified that that indeed has been kept
17 in his normal course of business and that those type of records
18 are used throughout the pure bred dog field. I don't believe
19 that that would come under the _____ (unintelligible) so I have
20 no objection to that particular one. I've also been shown by Mr.
21 Terwilliger the original of that and so the copy you have in your
22 hand is perfectly acceptable by the defense.

23 THE COURT: All right, without objection then the pedigree,
24 a copy of the pedigree of this dog issued by the American Kennel
25 Club dated 12-6-77 is received in evidence as a Commonwealth
26 exhibit.

Preston - Direct

28

1 Q Mr. Preston, what is this document and how is it
2 different from what has been received in evidence?

3 A This is the same documentation without the original or
4 without the additional ancestors on the pedigree. This is the
5 standard AKC certificate or registration of certificate that you
6 get whenever you purchase a registered dog in the United States
7 and then for an additional amount you can obtain the larger
8 certified wall copy and they will take that back for a slight
9 monetary addition as many generations back as you want to go into
10 the pedigree of any dog.

11 Q We have a copy of that and we would offer that into
12 evidence as well, Your Honor.

13 A I didn't copy the back of it, only the front.

14 Q O.k, we have a copy of the front. There is nothing on
15 the back except how you transfer the dog like on a certificate of
16 title or something.

17 THE COURT: Have you seen it?

18 MR. WARBURTON: Yes, sir, and we have no objection to that
19 item as proffered.

20 THE COURT: Now the documents that I have refused, maybe you
21 had better hand to me and let me put them in the file so they won't
22 get mixed up with the exhibits.

23 MR. SHOCKLEY: Let's see, 53, 54 and 55 are refused.

24 Q Mr. Preston let me return the original of this to you.

25 A O.k.

26 Q Have you done any type of testing or training with this

August 20, 2013

Ms. Maetta H. Crewe, Clerk
Circuit Court of Pulaski County
Suite 101
45 3rd Street, NW
Pulaski, VA 24301

Dear Ms. Crewe:

On December 19, 2012, I wrote the Honorable Colin R. Gibb a seven page letter with 20 pages of exhibits. The Court should have received this legal document on or about December 21, 2012. I have been waiting patiently for over eight months to receive a response from the Court.

Would you please be kind enough to answer the following questions in order that I may be informed about how the Court intends to answer my requests?

(1.) Has the Circuit Court received this letter and the enclosed documents? (2.) On what date was this mailing received? (3.) What action(s) did the Court take after receiving this mailing? (4.) Will the Court exercise any of its many options in regard to this MOTION? (5.) Did the Court notify the Commonwealth Attorney's Office? (6.) Did the Court notify any other individuals or offices? (7.) Would your Office please provide me with any information or decisions made by the Court in regard to my requests?

Thank you very much for your assistance in this important matter!

Sincerely,



Stephen Epperly, #1106705
Buckingham Correctional Center
P. O. Box 430
Dillwyn, VA 23936

RECEIVED

AUG 23 2013

AND FILED
PULASKI COUNTY CIRCUIT COURT
MAETTA H. CREWE

Circuit Court of Pulaski County

Maetta L Crewe, Clerk
Pulaski, Virginia 24301



JUDGES

MARCUS H. LONG, JR.
PULASKI, VA

COLIN R. GIBB
CHRISTIANSBURG, VA

ROBERT M.D. TURK
CHRISTIANSBURG, VA

JOSIAH T. SHOWALTER, JR.
WYTHEVILLE, VA

BRETT GEISLER
HILLSVILLE, VA

September 10, 2013

MAILING ADDRESS
45 THIRD STREET, N.W. SUITE 101
PULASKI, VIRGINIA 24301

TELEPHONE
(540) 980-7825
FAX (540) 980-7835

Mr. Stephen Epperly
Buckingham Correctional Center
P O Box 630
Dillwyn, VA 23936

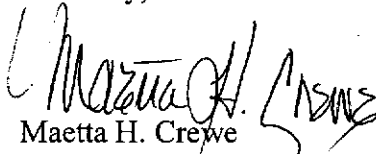
Re: Letter of Dec. 20, 2012

Dear Mr. Epperly

Thank you for your letter of August 20, 2013 in which you inquired about the letter you sent to Judge Gibb on December 20, 2012. As you know, your letter was sent directly to Judge Gibb, but our office marked the letter "Received" on January 25, 2013. At that time, Judge Gibb asked us to file the letter. After receiving the letter you wrote to me on August 20, addressed to me, I talked with Judge Gibb. He asked me to write a letter to you informing you that he has reviewed your letter again but that he has denied your Motion/Request.

If you have questions, feel free to contact me.

Sincerely,


Maetta H. Crewe
Clerk of Circuit Court

MHC/th

The Hometown Paper of Bennett Medley

7 ppsky / trial / car



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AFTER 35 YEARS,



'GINA'S NOT BEEN FORGOTTEN'

By MELINDA WILLIAMS
melinda@southwesttimes.com

Monday marks 35 years since Gina Renee Hall walked out of the Blacksburg Marriott with Stephen M. Epperly, never to be seen again.

Epperly is serving a life sentence at Buckingham Correctional Center for brutally murdering Hall at a house on Claytor Lake, but to this day no one knows what he did with her body.

If Radford City Police Department Lt. Andy Wilburn has his way, Hall's body will eventually fill her empty marked grave next to her father's grave in Coeburn. For several years, Wilburn has been reviewing the case files and interviewing witnesses, looking for any information that might shine some light on Hall's resting place.

Wilburn renewed the search for Hall after Radford authorities were able to solve the six-year-old murder of Radford University student

"I keep digging. I'm not going to give up. I think there's a reason I'm so passionate about this and it's because someone needs to be looking for her. It's not that I'm smarter or any better than anybody. I just think it's an atrocity that someone's daughter isn't being looked for. I'm using the forensic technologies that are available today and checking off locations one by one."



**Lt. Andy Wilburn,
Radford City
Police
Department**

Lori Pleasants. Hall was a student at what was then Radford College when she was murdered. "[Then Radford Chief Gary Harmon] said, 'Now, go find Gina,'" Wilburn recalls. "It was

more jovial than anything. He was kind of laughing and suggesting we were on a roll.

"I didn't know anything about Gina, so I got our copy of the file and read through it. I realized what a sad and gripping case it was. That's when I became fascinated with the case and sought permission from the state to make copies of some of the contents of the files," he explains.

Realizing no one was actively looking for the coed's body, Wilburn says he obtained permission from his chief "to actively look for her, and that's what I've been doing ever since."

However, Wilburn makes it clear that he hasn't reopened the case. "The case is solved and the right guy's in prison, there's no doubt about that. All I'm doing is looking at it with a fresh set of eyes to see if I can find out where she might be.

"I'm looking at it from a modern, advanced perspective to see if something happened back then — that something was written in a statement or report — that

could give somebody a clue of where she might be."

After law enforcement officers involved in the original investigation caught wind of Wilburn's activities, he said, some saw it as a slight on the work they had done, but Wilburn wants to be clear that he has no gripes about the way the case was handled.

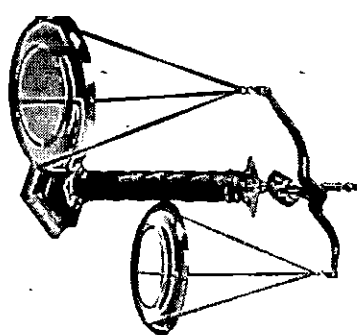
"To me, the job they did initially to put him in prison is amazing. Building this circumstantial case back then, putting the pieces together of her last hours and her last days, and convincing a jury based on circumstantial evidence alone [and no body], was incredible."

He says that whole group "should be praised," adding, "I've built circumstantial cases, and they're not easy."

Wilburn says he is just "a fresh set of eyes" to see if she can be found. "I certainly don't want them to think I'm better or smarter than them. I just don't want to put the file away."

In addition to reviewing files and conducting interviews, Wilburn has

"I think she's findable. For some reason I just think she's findable. I think I've found pieces of the puzzle, and I think there are more pieces to find. I'm going to get there. I believe I will. Maybe it's the case that somebody stumbles upon her. Either way, I'll take it. I don't care how we find her as long as we find her."



Lt. Andy Wilburn
Radford City PD

been "extremely positive, but also cautiously optimistic" about his search.

"They believe in what I'm doing and they really appreciate the passion I have for this case. That's the most important part. As long as I have their support, it means so much to me."

He says they also understand why he took part in the paranormal shows.

"I keep them updated on anything I feel is significant. They try to stay out of the limelight, and I don't blame them. They're still very hurt and very devastated even after all of these years," he said. While Hall's father has since passed away, her mother, sister and two brothers are still living.

Some of the possible locations Wilburn has heard Epperly may have hidden Hall's body in-

clude under the Dedmon Center and at other construction sites, in Claytor Lake, in the New River, buried beside Interstate 81 and under a coffin in another person's grave. He's also been told that her body was placed on a train and in another state, that she was ground up at the asphalt plant and is in the road and that she was incinerated.

"Everybody's got a theory, but unless you can analyze all of the data, it's not an educated theory, it's just a guess," he points out. "I've had people call me who have had dreams and visions. I'm looking at it based on facts and circumstances from that night and the next day."

He adds, "I keep digging. I'm not going to give up. I think there's a reason I'm so passionate about this and it's because someone needs to be looking for her. It's not that I'm smarter or any better than anybody. I just think it's an atrocity that someone's daughter isn't being looked for. I'm using the forensic technologies that are available today and checking off locations one by one."

While he has suspicions where her body is located, he says he's not ready to publicly venture a guess.

Wilburn says he believes there are "people out there" who have information that is critical to finding the body, but they're still "deathly afraid" of Epperly getting out of prison and harming them.

Wilburn doubts Epperly will ever be paroled. He also doubts Epperly will ever reveal the body's location unless there is an advantage, such as bettering Epperly's circumstances or helping him get parole.

"He's certainly not going to do it because of his conscience," Wilburn says of the prisoner. Regardless if Epperly talks, Wilburn says, "I think she's findable. For some reason I just think she's findable. I think I've found pieces of the puzzle, and I think there are more pieces to find.

"I'm going to get there. I believe I will. Maybe it's the case that somebody stumbles upon her. Either way, I'll take it. I don't care how we find her as long as we find her."