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Clerk, Supreme Court

Record Nos. 7083, 7084, 7085, 7086, 7087, 7088, 7089, 7090

In the Supreme Court of Appeals of Virginia at Richmond

George Lee Jones
v. Record No. 7083
Commonwealth of Virginia

George Lee Jones
v. Record No. 7084
Commonwealth of Virginia

George Lee Jones
v. Record No. 7085
Commonwealth of Virginia

George Lee Jones
v. Record No. 7086
Commonwealth of Virginia

George Lee Jones
v. Record No. 7087
Commonwealth of Virginia

George Lee Jones
v. Record No. 7088
Commonwealth of Virginia

George Lee Jones
v. Record No. 7089
Commonwealth of Virginia

George Lee Jones
v. Record No. 7090
Commonwealth of Virginia

FROM THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a.m.; Adjourns at 1:00 p.m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7083

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

GEORGE LEE JONES, Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA, Defendant in error.

From the Circuit Court of the City of Virginia Beach
Paul W. Ackiss, Judge

Upon the petition of George Lee Jones a writ of error and *supersedeas* in awarded him to a judgment rendered by the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968, in a prosecution by the Commonwealth against the said petitioner for a felony (Statutory Burglary No. 1); but said *supersedeas,* however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7084

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

GEORGE LEE JONES, Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA, Defendant in error.

From the Circuit Court of the City of Virginia Beach
Paul W. Ackiss, Judge

Upon the petition of George Lee Jones a writ of error and *supersedeas* is awarded him to a judgment rendered by the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968, in a prosecution by the Commonwealth against the said petitioner for a felony (Statutory Burglary No. 2); but said *supersedeas,* however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7085

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

GEORGE LEE JONES, Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA, Defendant in error.

From the Circuit Court of the City of Virginia Beach
Paul W. Ackiss, Judge

Upon the petition of George Lee Jones a writ of error and *supersedeas* is awarded him to a judgment rendered by the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968, in a prosecution by the Commonwealth against the said petitioner for a felony (Statutory Burglary No. 3); but said *supersedeas,* however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7086

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

GEORGE LEE JONES, Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA, Defendant in error.

From the Circuit Court of the City of Virginia Beach
Paul W. Ackiss, Judge

Upon the petition of George Lee Jones a writ of error and *supersedeas* is awarded him to a judgment rendered by the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968, in a prosecution by the Commonwealth against the said petitioner for a felony (Statutory Burglary No. 4); but said *supersedeas,* however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7087

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

GEORGE LEE JONES, Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA, Defendant in error.

From the Circuit Court of the City of Virginia Beach
Paul W. Ackiss, Judge

Upon the petition of George Lee Jones a writ of error and *supersedeas* is awarded him to a judgment rendered by the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968, in a prosecution by the Commonwealth against the said petitioner for a felony (Statutory Burglary No. 5); but said *supersedeas,* however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7088

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

GEORGE LEE JONES, Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA, Defendant in error.

From the Circuit Court of the City of Virginia Beach
Paul W. Ackiss, Judge

Upon the petition of George Lee Jones a writ of error and *supersedeas* is awarded him to a judgment rendered by the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968, in a prosecution by the Commonwealth against the said petitioner for a felony (Statutory Burglary No. 6); but said *supersedeas*, however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7089

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

GEORGE LEE JONES, Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA, Defendant in error.

From the Circuit Court of the City of Virginia Beach
Paul W. Ackiss, Judge

Upon the petition of George Lee Jones a writ of error and *supersedeas* is awarded him to a judgment rendered by the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968, in a prosecution by the Commonwealth against the said petitioner for a felony (Statutory Burglary No. 7); but said *supersedeas,* however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7090

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 16th day of October, 1968.

GEORGE LEE JONES, Plaintiff in error,

against

COMMONWEALTH OF VIRGINIA, Defendant in error.

From the Circuit Court of the City of Virginia Beach
Paul W. Ackiss, Judge

Upon the petition of George Lee Jones a writ of error and *supersedeas* is awarded him to a judgment rendered by the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968, in a prosecution by the Commonwealth against the said petitioner for a felony (Indictment for forgery); but said *supersedeas,* however, is not to operate to discharge the petitioner from custody, if in custody, or to release his bond if out on bail.

JUDGE'S CERTIFICATE

* * * * *

I, PAUL W. ACKISS, Judge of the Circuit Court of the City of Virginia Beach, Virginia, pursuant to Section 19.1, Code of Virginia, 1950, as amended, do hereby certify that I have investigated the financial status of the plaintiff-in-error and am of the opinion that the plaintiff-in-error is unable to pay or secure to be paid the costs incident to his appeal.

GIVEN under my hand and seal this 4 day of November, 1968:

Paul W. Ackiss
Judge of the Circuit Court of the
City of Virginia Beach, Virginia

Recd. 11-14-68. J.V.F.

* * * * *

AFFIDAVIT OF POVERTY

APPLICATION TO PROCEED IN *FORMA PAUPERIS*

STATE OF VIRGINIA
CITY OF , to-wit:

This day personally appeared before me, the undersigned, a Notary Public in and for the City aforesaid, in the State of Virginia, George Lee Jones, who after first being duly sworn, deposes and says that he is financially unable to pay or secure to be paid the cost incident to appeal and cost to secure an attorney of his own choosing, the cost of printing the record in the Supreme Court of Appeals of Virginia in the cause wherein he is the plaintiff-in-error and the Commonwealth of Virginia is the defendant-in-error, and prays that he be allowed to proceed in *forma pauperis.*

George Lee Jones

Subscribed and sworn to before me this 4 day of November, 1968.

My commission expires: April 12, 1969.

J. L. Summer
Notary Public

Recd. 11-14-68. J.L.S.

Records Nos. 7083, 7084, 7085, 7086, 7087, 7088, 7089, & 7090

* * * * *

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* * * * *

In the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968.

* * * * *

Upon an Indictment for Statutory Burglary #1

The Court doth order for the recording verbatim of the evidence and incidents of the trial of this case by the electronic device this day approved by the Court, and thereupon came the Attorney for the Commonwealth, and the accused, George Lee Jones, who stands indicted for Statutory Burglary, was led to the bar in the custody of the Sergeant of this Court, and also came Leigh Ansell, Attorney for the accused, said attorney having heretofore been appointed by the Court on September 21st, 1967, due to his inability to secure counsel of his own choosing, and the accused being a Juvenile, thereupon came the Probation Officer of this Court and rendered a pre-trial report on the accused, pursuant to Section 16.1-176-B of the Code of Virginia, and the Court after considering said report doth order that the accused be tried as an adult and doth order that the report be filed as a part of the record in this case; and the accused, having heretofore been arraigned and pleaded guilty to said indictment, tendered in person by the accused, his counsel, and the concurrence of the Attorney for the Commonwealth, and the Court here entered of record, the Court heard and determined the case without the intervention of a jury, and after hearing the evidence, the Court doth find the accused guilty of Statutory Burglary as charged in the indictment and doth fix his punishment at two (2) years in the penitentiary.

Whereupon it being demanded of the prisoner if anything for himself he had or knew to say why the Court should not now proceed to pronounce judgment against him according to law, and nothing being offered or alleged in delay thereof, it is adjudged and ordered by the Court that the said George Lee Jones be confined in the Penitentiary of this Commonwealth for the term of two (2) years.

And it is ordered that the Clerk of this Court forthwith transmit to the Superintendent of said Penitentiary, a copy of this judgment, and that the Sergeant of this City when required so to do, deliver the said George Lee Jones to the guard authorized to receive him who shall remove and safely convey him from the Jail of this City to said Penitentiary, therein to be kept imprisoned and treated in the manner directed by law.

And the prisoner is remanded to jail.

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* * * * *

In the Circuit Court of the City of Virginia Beach on February 20, 1968

* * * * *

Upon an Indictment for Statutory Burglary #2

The Court doth order for the recording verbatim of the evidence and incidents of the trial of this case by the electronic device this day approved by the Court, and thereupon came the Attorney for the Commonwealth, and the accused, George Lee Jones, who stands indicted for Statutory Burglary, was led to the bar in the custody of the Sergeant of this Court, and also came Leigh Ansell, Attorney for the accused, said attorney having heretofore been appointed by the Court on September 21st, 1967, due to his inability to secure counsel of his own choosing, and the accused being a Juvenile, thereupon came the Probation Officer of this Court and rendered a pre-trial report on the accused, pursuant to Section 16.1-176-B of the Code of Virginia, and the Court after considering said report doth order that the accused be tried as an adult and doth order that the report be filed as a part of the record in this case, the accused having heretofore been arraigned and pleaded guilty to said indictment, tendered in person by the accused, his counsel, and the concurrence of the Attorney for the Commonwealth, and the Court here entered of record, the Court heard and determined the case without the intervention of a jury, and after hearing the evidence, the Court doth find the accused guilty of Statutory Burglary as charged in the indictment and doth fix his punishment at two (2) years in the penitentiary.

Whereupon it being demanded of the prisoner if anything for himself he had or knew to say why the Court should not now proceed to pronounce judgment against him according to law, and nothing being offered or alleged in delay thereof, it is adjudged, ordered by the Court that the said George Lee Jones, be confined in the Penitentiary of this Commonwealth for the term of two (2) years, said term to run concurrently with a previous term of two years, this day rendered by this Court and mentioned in the preceding judgment of this Court.

And it is ordered that the Clerk of this Court forthwith transmit to the Superintendent of said Penitentiary, a copy of this judgment, and that the Sergeant of this City when required so to do, deliver the said George Lee Jones, to the guard authorized to receive him who shall remove and safely convey him from the Jail of this City to said Penitentiary, therein to be kept imprisoned and treated in the manner directed by law.

And the prisoner is remanded to Jail.

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In the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968.

* * * * *

Upon an Indictment for Statutory Burglary #3

The Court doth order for the recording verbatim of the evidence and incidents of the trial of this case by the electronic device this day approved by the Court and thereupon came the Attorney for the Commonwealth, and the accused George Lee Jones, who stands indicted for Statutory Burglary, was led to the bar in the custody of the Sergeant of this Court, and also came Leigh Ansell, Attorney for the accused, said attorney having heretofore been appointed by the Court on September 21st, 1967, due to his inability to secure counsel of his own choosing, and the accused being a Juvenile, thereupon came the Probation Officer of this Court and rendered a pre-trial report on the accused, pursuant to Section 16.1-176 B of the Code of Virginia, and the Court after considering said report doth order that the accused be tried as an adult and doth order that the report be filed as a part of the record in this case, the accused having heretofore been

arraigned, and pleaded guilty to said indictment, tendered in person by the accused, his counsel, and the concurrence of the Attorney for the Commonwealth, and the Court here entered of record, the Court heard and determined the case without the intervention of a jury, and after hearing the evidence, the Court doth find the accused guilty of Statutory Burglary as charged in the indictment and doth fix his punishment at two (2) years in the penitentiary.

Whereupon it being demanded of the prisoner if anything for himself he had or knew to say why the Court should not now proceed to pronounce judgment against him according to law, and nothing being offered or alleged in delay thereof, it is adjudged, and ordered by the Court that the said George Lee Jones, be confined in the Penitentiary of this Commonwealth for the term of two (2) years , said term to run concurrently with two previous terms of two (2) years each this day rendered, aggregating four (4) years, and mentioned in the preceding judgments of this Court.

And it is ordered that the Clerk of this Court forthwith transmit to the Superintendent of said Penitentiary, a copy of this judgment, and that the Sergeant of this City when required so to do, deliver the said George Lee Jones to the guard authorized to receive him who shall remove and safely convey him from the Jail of this City to said Penitentiary, therein to be kept imprisoned and treated in the manner directed by law.

And the prisoner is remanded to Jail.

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* * * * *

In the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968.

* * * * *

Upon an Indictment for Statutory Burglary #4

The Court doth order for the recording verbatim of the evidence and incidents of the trial of this case by the electronic device this day approved by the Court, and thereupon came the Attorney for the Commonwealth, and the accused, George Lee Jones, who stands indicted for Statutory Burglary, was led to the bar in the custody of the Sergeant of

this Court, and also came Leigh Ansell, Attorney for the accused, said attorney having heretofore been appointed by the Court on September 21st, 1967, due to his inability to secure counsel of his own choosing, and the accused being a Juvenile, thereupon came the Probation Officer of this Court and rendered a pre-trial report on the accused, pursuant to Section 16.1-176-B of the Code of Virginia, and the Court after considering said report doth order that the accused be tried as an adult and doth order that the report be filed as a part of the record in this case; the accused having heretofore been arraigned and pleaded guilty to said indictment, tendered in person by the accused, his counsel, and the concurrence of the Attorney for the Commonwealth, and the Court here entered of record, the Court heard and determined the case without the intervention of ajury, and after hearing the evidence, the Court doth find the accused guilty of Statutory Burglary as charged in the indictment and doth fix his punishment at two (2) years in the penitentiary.

Whereupon it being demanded of the prisoner if anything for himself he had or knew to say why the Court should not now proceed to pronounce judgment against him according to law, and nothing being offered or alleged in delay thereof, it is adjudged and ordered by the Court that the said George Lee Jones be confined in the Penitentiary of this Commonwealth for the term of two (2) years, said term to run concurrently with three (3) previous terms of two (2) years each, this day rendered, aggregating six (6) years and mentioned in the preceding judgments of this Court.

And it is ordered that the Clerk of this Court forthwith transmit to the Superintendent of said Penitentiary, a copy of this judgment, and that the Sergeant of this City when required so to do, deliver the said George Lee Jones, to the guard authorized to receive him who shall remove and safely convey him from the Jail of this City to said Penitentiary, therein to be kept imprisoned and treated in the manner directed by law.

And the prisoner is remanded to Jail.

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* * * * *

In the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968.

* * * * *

Upon an Indictment for Statutory Burglary #5

The Court doth order for the recording verbatim of the evidence and incidents of the trial of this case by the electronic device this day approved by the Court and thereupon came the Attorney for the Commonwealth, and the accused George Lee Jones, who stands indicted for Statutory Burglary, was led to the bar in the custody of the Sergeant of this Court, and also came Leigh Ansell, Attorney for the accused, said attorney having heretofore been appointed by the Court on September 21st, 1967, due to his inability to secure counsel of his own choosing, and the accused being a Juvenile, thereupon came the Probation Officer of this Court and rendered a pre-trial report on the accused, pursuant to Section 16.1-176B of the Code of Virginia, and the Court after considering said report doth order that the accused be tried as an adult and doth order that the report be filed as a part of the record in this case; the accused having heretofore been arraigned, and pleaded guilty to said indictment, tendered in person by the accused, his counsel, and the concurrence of the Attorney for the Commonwealth, and the Court here entered of record, the Court heard and determined the case without the intervention of a jury, and after hearing the evidence, the Court doth find the accused guilty of Statutory Burglary as charged in the indictment and doth fix his punishment at two (2) years in the penitentiary.

Whereupon it being demanded of the prisoner if anything for himself he had or knew to say why the Court should not now proceed to pronounce judgment against him according to law, and nothing being offered or alleged in delay thereof. it is adjudged and ordered by the Court that the said George Lee Jones, be confined in the Penitentiary of this Commonwealth for the term of two (2) years, said term to run concurrently with four (4) previous terms of two (2) years each, this day rendered and mentioned in the preceding judgments of this Court.

And it is ordered that the Clerk of this Court forthwith transmit to the Superintendent of said Penitentiary, a copy of this judgment, and that the Sergeant of this City when required so to do, deliver the said George Lee Jones to the guard authorized to receive him who shall remove and safely convey him from the Jail of this City to said Penitentiary, therein to be kept imprisoned and treated in the manner directed by law.

And the prisoner is remanded to Jail.

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* * * * *

In the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968.

* * * * *

Upon an Indictment for Statutory Burglary #6

The Court doth order for the recording verbatim of the evidence and incidents of the trial of this case by the electronic device this day approved by the Court, and thereupon came the Attorney for the Commonwealth, and the accused George Lee Jones, who stands indicted for Statutory Burglary, was led to the bar in the custody of the Sergeant of this Court, and also came Leigh Ansell, Attorney for the accused, said attorney having heretofore been appointed by the Court on September, 21, 1967, due to his inability to secure counsel of his own choosing, and the accused being a Juvenile, thereupon came the Probation Officer of this Court and rendered a pre-trial report on the accused, pursuant to Section 16.1-176B of the Code of Virginia, and the Court after considering said Report doth order that the accused be tried as an adult and doth order that the report be filed as a part of the record in this case; the accused having heretofore been arraigned, and pleaded guilty to said indictment, tendered in person by the accused, his counsel, and the concurrence of the Attorney for the Commonwealth, and the Court here entered of record, the Court heard and determined the case without the intervention of a jury, and after hearing the evidence, the Court doth find the accused guilty of Statutory Burglary as charged in the indictment and doth fix his punishment at two (2) years in the Penitentiary.

Whereupon it being demanded of the prisoner if anything for himself he had or knew to say why the Court should not now proceed to pronounce judgment against him according to law, and nothing being offered or alleged in delay thereof, it is adjudged and ordered by the Court that the said George Lee Jones, be confined in the Penitentiary of this Commonwealth for the term of two (2) years, said term to run concurrently with five (5) previous terms of two (2) years each, this day rendered and mentioned in the preceding judgments of this Court.

And it is ordered that the Clerk of this Court forthwith transmit to the Superintendent of said Penitentiary, a copy of this judgment, and that the Sergeant of this City when required so to do, deliver the said George Lee Jones to the guard authorized to receive him who shall remove and safely convey him from the Jail of this City to said Penitentiary, therein to be kept imprisoned and treated in the manner directed by law.

And the prisoner is remanded to Jail.

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* * * * *

In the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968.

* * * * *

Upon an Indictment for Statutory Burglary #7

The Court doth order for the recording verbatim of the evidence and incidents of the trial of this case by the electronic device this day approved by the Court, and thereupon came the Attorney for the Commonwealth, and the accused George Lee Jones, who stands indicted for Statutory Burglary, was led to the bar in the custody of the Sergeant of this Court, and also came Leigh Ansell, Attorney for the accused, said attorney having heretofore been appointed by the Court on September 21st, 1967, due to his inability to secure counsel of his own choosing, and the accused being a Juvenile, thereupon came the Probation Officer of this Court and rendered a pre-trial report on the accused, pursuant to Section 16.1-176-B of the Code of Virginia, and the Court after considering said report doth order that the accused be tried as an adult and doth order that the report be filed as a part of the record in this case; and the accused having heretofore been arraigned, and pleaded guilty to said indictment, tendered in person by the accused, his counsel, and the concurrence of the Attorney for the Commonwealth, and the Court here entered of record, the Court heard and determined the case without the intervention of a jury, and after hearing the evidence, the Court doth find the accused guilty of Statutory Burglary as charged in the indictment and doth fix his punishment at two (2) years in the penitentiary.

Whereupon it being demanded of the prisoner if anything for himself he had or knew to say why the Court should not now proceed to pronounce judgment against him according to law, and nothing being offered or alleged in delay thereof, it is adjudged and ordered by the Court that the said George Lee Jones, be confined in the Penitentiary of this Commonwealth for the term of two (2) years, said term to run concurrently with six (6) previous terms of two (2) years, each, this day rendered and mentioned in the preceding judgments of this Court.

And it is ordered that the Clerk of this Court forthwith transmit to the Superintendent of said Penitentiary, a copy of this judgment, and that the Sergeant of this City when required so to do, deliver the said George Lee Jones to the guard authorized to receive him who shall remove and safely convey him from the Jail of this City to said Penitentiary, therein to be kept imprisoned and treated in the manner directed by law.

And the prisoner is remanded to Jail.

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* * * * *

In the Circuit Court of the City of Virginia Beach on the 20th day of February, 1968.

* * * * *

Upon an Indictment for Forgery

The Court doth order for the recording verbatim of the evidence and incidents of the trial of this case by the electronic device this day approved by the Court, and thereupon came the Attorney for the Commonwealth, and the accused George Lee Jones, who stands indicted for Forgery, was led to the bar in the custody of the Sergeant of this Court, and also came Leigh Ansell, Attorney for the accused, said attorney having heretofore been appointed by the Court on September 21st, 1967, due to his inability to secure counsel of his own choosing, and the accused being a Juvenile, thereupon came the Probation Officer of this Court and rendered a pretrial report on the accused, pursuant to Section 16.1-176-B of the Code of Virginia, and the Court after considering said Report doth order that the accused be tried as an adult and

doth order that the report be filed as a part of the record in this case; the accused having heretofore been arraigned, and pleaded guilty to said indictment, tendered in person by the accused, his counsel, and the concurrence of the Attorney for the Commonwealth, and the Court here entered of record, the Court heard and determined the case without the intervention of a jury, and after hearing the evidence, the Court doth find the accused guilty of Forgery as charged in the indictment and doth fix his punishment at two (2) years in the penitentiary.

Whereupon it being demanded of the prisoner if anything for himself he had or knew to say why the Court should not now proceed to pronounce judgment against him according to law, and nothing being offered or alleged in delay thereof, it is adjudged and ordered by the Court that the said George Lee Jones, be confined in the Penitentiary of this Commonwealth for the term of two (2) years, said term to run concurrently with seven (7) previous terms of two (2) years, each, this day rendered and mentioned in the preceding judgments of this Court.

And it is ordered that the Clerk of this Court forthwith transmit to the Superintendent of said Penitentiary, a copy of this judgment, and that the Sergeant of this City when required so to do, deliver the said George Lee Jones to the guard authorized to receive him who shall remove and safely convey him from the Jail of this City to said Penitentiary, therein to be kept imprisoned and treated in the manner directed by law.

And the prisoner is remanded to jail.

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* * * * *

NOTICE OF APPEAL AND ASSIGNMENT OF ERRORS

To: Mr. John V. Fentress, Clerk
Circuit Court
Princess Anne Station
Virginia Beach, Virginia

NOTICE is hereby given that GEORGE LEE JONES by and through his Court-appointed attorney, appeals the decision of this Court entered on February 20, 1968 and assigns the following errors as required by Rule 5:1, Section 4, of the Rules of the Supreme Court of Appeals of Virginia.

1. The Court erred as a matter of law and evidence in failing to arraign the accused at this trial.

2. Error of the Court in failing to strike the Commonwealth's evidence as being insufficient to sustain a conviction under the law and evidence.

George Lee Jones

By W. Leigh Ansell
Counsel

Filed Mar. 6, 1968.

John V. Fentress, Clerk.

By R. H. West, D. C.

* * * * *

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* * * * *

ORDER

It appearing to the Court that George Lee Jones having testified under oath that he is financially unable to employ counsel to represent him on his appeal or pay for the records therein, the Court doth appoint W. Leigh Ansell, a competent counsel, to represent him on his appeal and doth direct the Clerk to furnish all records necessary in said appeal including the testimony.

Enter: 3/7/68 R.H.W.

* * * * *

Following is the transcription from the electronic recording, by Dictaphone as approved by this court, of the trial of the above named defendant charged on ten indictments of statutory burglary and one indictment of forgery and uttering heard on Tuesday, the 23rd day of January, 1968, the sentences on this date imposed were thereafter set aside and all charges were re-heard on Tuesday, the 20th lay of February, 1968, all matters pertaining to this cause having been

heard by the Court, The Honorable Paul W. Ackiss, Judge, presiding.

APPEARANCES:

Mr. Joseph L. Lyle, Jr.
Assistant Commonwealth's Attorney
Virginia Beach, Virginia 23456 For The Commonwealth

Mr. W. Leigh Ansell
Ansell, Butler & Canada
Attorneys at Law
3707 Virginia Beach Boulevard
Virginia Beach, Virginia 23452 For The Defendant.

* * * * *

page 6 } PROCEEDING

January 23, 1968

The Court: Gentlemen, are we now ready in the case of the Commonwealth of Virginia against George Lee Jones, ten different indictments for statutory burglary and I think there is one of forgery and uttering, indictments num—it's indictments numbered 112 through 122. Do you want to try them all together, gentlemen?

Mr. Lyle: Yes, sir, if it's all right with the defense.

Mr. Ansell: We have no objection, Your Honor.

The Court: All right.

(To Clerk): You can arraign him.

The Clerk: George Lee Jones, stand up!

(Whereupon, the accused stood and faced the Court.)

The Clerk: You stand indicted as follows, that on or about the 30th day of June, in the year 1967, in the City of Virginia Beach, Virginia, you did in the nighttime unlawfully, feloniously and burglariously break and enter the Lake Wright Esso Station of one William S. Bradford, manager,
page 7 } situated in the said city with intent then and there to unlawfully, feloniously and burglariously steal, take and carry away the goods and chattels of the said Wil-

liam S. Bradford, manager, which were then in the said Lake Wright Esso Station, and then and there did unlawfully, feloniously and burglariously steal, take and carry away thirty ($30.00) dollars in U. S. Currency and coins. All being of the value of thirty ($30.00) dollars of the goods and chattels of the said William S. Bradford, manager, which were in the said Lake Wright Esso Station, in the city aforesaid, against the peace and dignity of the Commonwealth of Virginia.

What say you, are you guilty or not guilty?

The Accused: Guilty.

The Clerk: You stand further indicted that on or about the 26th day of July, in the year 1967, in the said city of Virginia Beach, Virginia, in the nighttime, unlawfully, feloniously and burglariously did break and enter the schoolhouse of one Bayside Elementary School situated in the said city with intent then and there to unlawfully, feloniously and burglariously steal, take and carry away the goods and chattels of the said Bayside Elementary School, which were then in the said schoolhouse, and then and there did unlaw-
page 8 } fully, feloniously and burglariously steal, take and carry away twelve ($12.00) dollars in U. S. currency and coin from various vending machines and two (2) five-cent stamps, all being of the approximate value of twelve ($12.00) dollars of the goods and chattels of the said Bayside Elementary School, which were in the said schoolhouse in the city aforesaid, against the peace and dignity of the Commonwealth of Virginia.

What say you are you guilty or not guilty?

The Accused: Guilty.

The Clerk: You stand further indicted that on the 27th day of July, in the year 1967, in the city of Virginia Beach, Virginia, in the nighttime unlawfully, feloniously and burglariously did break and enter the Lake Wright Esso Station of one William S. Bradford, manager, situated in the said city, with intent then and there to unlawfull, feloniously and burglariously steal, take and carry away the goods and chattels of the said William S. Bradford, manager, which was then in the said Lake Wright Esso Station, and then and there did unlawfully, feloniously and burglariously steal, take and carry away twenty-four ($24.00) dollars in U. S. currency and coins, all being of the approximate value of
page 9 } twenty-four ($24.00) dollars of the goods and chattels of the said William S. Bradford, manager, which were in the said Lake Wright Esso Station in the city

aforesaid, against the peace and dignity of the Commonwealth of Virginia.

What say you, are you guilty or not guilty?

The Accused: Guilty.

The Clerk: You stand further indicted that on or about the 30th day of July, in the year 1967, in the city of Virginia Beach, Virginia, in the nighttime unlawfully, feloniously and burglariously did break and enter in the Thoroughgood Atlantic Station of one George Ritter, owner, situated in the said city with intent then and there to unlawfully, feloniously and burglariously steal, take and carry away the goods and chattels of the said George Ritter, owner, which were in —which were then in the said Thoroughgood Atlantic Station, and then and there did unlawfully, feloniously and burglariously steal, take and carry away thirty ($30.00) dollars in U. S. currency and coins from cash drawer and vending cigarette machine, all being of the approximate value of thirty ($30.00) dollars of the goods and chattels of the said George Ritter, owner, which were in the said Thorough-
page 10 } good Atlantic Station in the city aforesaid, against the peace and dignity of the Commonwealth of Virginia.

What say you, are you guilty or not guilty?

The Accused: Guilty.

The Clerk: You stand further charged that on or about the 2nd day of August, in the year 1967, in the city of Virginia Beach, Virginia, in the nighttime unlawfully, feloniously and burglariously did break and enter the Lake Wright Texaco Station of one George Thomas Lamb, manager, situated in the said city, with intent then and there to unlawfully, feloniously and burglariously steal, take and carry away the goods and chattels of the said George Thomas Lamb, manager, which were then in the said Lake Wright Texaco Station, and then and there did unlawfully, feloniously and burglariously steal, take and carry away forty ($40.00) dollars in U. S. currency and coins and one (1) nineteen inch Short —nineteen inch "Sharp" television valued at fifty ($50.00) dollars, all being of the approximate value of ninety ($90.00) dollars of the goods and chattels of the said George Thomas Lamb, manager, which were in the said Lake Wright Texaco Station in the city aforesaid, against the peace and dignity of the Commonwealth of Virginia.

page 11 } What say you, are you guilty or not guilty?

The Accused: Guilty.

The Clerk: You stand further indicted that on or about the

4th day of August, in the year 1967, in the city of Virginia Beach, Virginia, in the nighttime unlawfully, feloniously and burglariously you did break and enter the Lake Wright Esso Station of one Bill Denmark, manager, situated in the said city, with intent then and there to unlawfully, feloniously and burglariously steal, take and carry away the goods and chattels of the said Bill Denmark, manager, which were then in the said Lake Wright Esso Station, and then and there did unlawfully, feloniously and burglariously steal, take and carry away thirteen ($13.00) dollars in U. S. currency and coins, all being of the approximate value of thirteen ($13.00) dollars of the goods and chattels of the said Bill Denmark, manager, which were in the said Lake Wright Esso Station in the city aforesaid, against the peace and dignity of the Commonwealth of Virginia.

What say you, are you guilty or not guilty?

The Accused: Guilty.

The Clerk: You stand further indicted that on page 12 } or about the 11th day of August in the year 1967, in the city of Virginia Beach, Virginia, in the nighttime unlawfully, feloniously and burglariously did break and enter the schoolhouse of one Bettie Williams School, situated in the said city, with intent then and there to unlawfully, feloniously and burglariously steal, take and carry away the goods and chattels of the said Bettie Williams School which were then in the said schoolhouse, and then and there did unlawfully, feloniously and burglariously steal, take and carry away two ($2.00) dollars in U. S. currency and coins from a vending machine, all being of the approximate value of two ($2.00) dollars of the goods and chattels of the said Bettie Williams School which were in the said schoolhouse, in the city aforesaid, against the peace and dignity of the Commonwealth of Virginia.

What say you, are you guilty or not guilty?

The Accused: Guilty.

The Clerk: You stand further indicted that on or about the 14th day of August in the year 1967, in the city of Virginia Beach, Virginia, in the nighttime unlawfully, feloniously and burglariously you did break and enter the schoolhouse of one Shelton Park Elementary School situated page 13 } in the said city with intent then and there to unlawfully, feloniously and burglariously steal, take and carry away the goods and chattels of the said Shelton Park Elementary School which were then in the said schoolhouse, and then and there did unlawfully, feloniously and bur-

glariously steal, take and carry away fourteen ($14.00) dollars in U. S. currency and coins, all being of the approximate value of fourteen ($14.00) dollars of the goods and chattels of the said Shelton Park Elementary School which were in the said schoolhouse in the city aforesaid, against the peace and dignity of the Commonwealth of Virginia.

What say you, are you guilty or not guilty?

The Accused: Guilty.

The Clerk: You stand further indicted that on or about the 15th day of August in the year 1967, in the city of Virginia Beach, Virginia, in the nighttime unlawfully, feloniously and burglariously you did break and enter Vic's Pizzeria Restaurant of one Samuel B. Snyder, owner, situated in the said city, with intent then and there to unlawfully, feloniously and burglariously steal, take and carry away the goods and chattels of the said Samuel B. Snyder, owner, which were then in the said Vic's Pizzeria Restaurant, and

page 14 } then and there did unlawfully, feloniously and burglariously steal, take and carry away twelve ($12.00) dollars in U. S. currency and coins all being of the approximate value of twelve ($12.00) dollars of the goods and chattels of the said Samuel B. Snyder, owner, which were in the said Vic's Pizzeria Restaurant in the city aforesaid, against the peace and dignity of the Commonwealth of Virginia.

What say you, are you guilty or not guilty?

The Accused: Guilty.

The Clerk: You stand further indicted that on or about the 24th day of August, in the year 1967, in the city of Virginia Beach, Virginia, in the nighttime unlawfully, feloniously and burglariously you did break and enter the Jamaica Inn of one Roy Welch, manager, situated in the said city, with intent then and there to unlawfully, feloniously and burglariously steal, take and carry away the goods and chattels of the said Roy Welch, manager, which were in the said Jamaica Inn and then and there did unlawfully, feloniously and burglariously steal take and carry away thirty-five ($35.00) dollars in U. S. currency and coins in quarters and half dollars, all being of the approximate value of thirty-five ($35.00) dollars of the goods and chattels of the said Roy

page 15 } Welch, manager, which were in the said Jamaica Inn in the city aforesaid, against the peace and dignity of the Commonwealth of Virginia.

What say you, are you guilty or not guilty?

The Accused: Guilty.

The Clerk: You stand further indicted that on or about the 7th day of August, in the year of 1967, in the city of Virginia Beach, Virginia, you did then and there unlawfully and feloniously forge a certain order for the payment of money, commonly called a check, purporting to be the order and draft of Thomas Benjamin Howell of the First and Merchants National—upon the First and Merchants National Bank of Virginia Beach, Virginia, for the payment of thirty-one ($31.00) dollars to the prejudice of another's right and with intent then and there unlawfully and feloniously to defraud, against the peace and dignity of the Commonwealth of Virginia.

What say you are you guilty or not guilty?

The Accused: Guilty.

The Court: You may remain standing, that's the last one.

The Clerk: Yes, but there's a second count on
page 16 } this one.

The Court: Oh, excuse me, go ahead, all right.

The Clerk: And the grand jurors aforesaid, upon their oath aforesaid, do further present that you, the said George Lee Jones, on or about the 7th day of August, 1967, did unlawfully and feloniously utter or attempt to employ the said forged order and draft for the payment of thirty-one ($31.00) dollars, as aforesaid, commonly called a check as a true and genuine check, and that you, the said George Lee Jones, then and there well knowing the same to be then and there forged, to the prejudice of another's right and with intent to defraud, against the peace and dignity of the Commonwealth of Virginia.

What say you, are you guilty or not guilty?

The Accused: Guilty.

The Court: You may remain standing now. Mr. Ansell, you are court appointed in this case are

Mr. Ansell: Yes, sir.

The Court: you not?

Well now, for the record Mr. Jones, I wish you would state your answers to the following questions.

What is your name?

page 17 } The Accused: George Lee Jones.

The Court: And what is your age?

The Accused: Eighteen (18).

The Court: And when—when were you eighteen?

The Accused: September the 25th.

The Court: Of 1967?

The Accused: Yes, sir.

The Court: Are you the defendant in the indictments just read to you?

The Accused: Sir?

The Court: Are you the defendant in all of the indictments just read to you?

The Accused: Yes, sir.

The Court: Do you know that you are entitled to have a jury trial on a plea of not guilty if you choose?

The Accused: (Could not hear the answer.)

The Court: Your answer is, "Yes"? You have to speak up so it goes into the machine.

The Accused: Yes, sir.

The Court: Have you talked to Mr. Ansell, the attorney who has been appointed to represent you here today?

The Accused: Yes, sir.

page 18 } The Court: Have you talked to him about having a jury trial?

The Accused: No, sir.

The Court: You did discuss a jury trial, haven't you, Mr. Jones?

The Accused: Oh, yes, but I didn't want any jury trial.

The Court: Well, I understand, but you discussed it?

The Accused: Yes, sir.

The Court: All right. Did you and your—and Mr. Ansell decide to have the judge try your case after you discussed it and talked with him about it?

The Accused: Yes, sir.

The Court: You came to the conclusion you wanted a judge to try it?

The Accused: Yes, sir.

The Court: Did you talk to Mr. Ansell about the subject of witnesses?

The Accused: Yes, sir.

The Court: Having any witnesses here, you discussed that, did you not?

page 19 } The Accused: Well, I *duscussed* it, but I didn't have any.

The Court: I un—you didn't have any, but you discussed it, he asked you about witnesses, did he not?

The Accused: Yes, sir.

The Court: And you didn't have any?

The Accused: That's right.

The Court: Are you now ready for trial?

The Accused: Yes, sir.

The Court: You know Mr. Ansell, he's represented you before, has he not?

The Accused: Yes, sir.

The Court: You are satisfied with his services, are you not?

The Accused: Yes, sir.

The Court: Do you have any complaint about the conduct of anyone connected with your case that you want to report to me before going into the trial?

The Accused: Ah—I didn't understand what you said.

The Court: Do you have any complaint anywhere along the line about the way the officers have treated
page 20 } you, your counsel has treated you or what before this?

The Accused: No, sir.

The Court: No complaint. Do you understand all the questions I have asked you and the answers you have given?

The Accused: Yes, sir.

The Court: On a plea of guilty, do you understand a plea of guilty?

The Accused: Yes, sir.

The Court: The only issue here is the amount of punishment. Do you understand that?

The Accused: Yes, sir.

The Court: And have you been advised by Mr. Ansell and do you understand the significance of a plea of guilty?

The Accused: Yes, sir.

The Court: You have discussed that with him?

The Accused: Yes, sir.

The Court: All right, you can take your seat.

(Whereupon, the accused was seated at counsel table, beside his counsel.)

Mr. Lyle: If Your Honor please, as was alleged through the reading of the indictments, these case boil
page 21 } down to ten (10) counts of statutory burglary over a period from June 30th, through August 4th, of this past year, involved schools and service stations in the city of Virginia Beach. In each instance, with one exception, the amount stolen was not ah—was in the form of money and it was not any particular great amount, somewhere running from two to thirty ($2.00 to $30.00) dollars. In one instance the Lake Wright Texaco Station there was forty ($40.00) dollars and a television set worth *appoximately* fifty ($50.00) dollars. And in most of the instances the amount stolen was not particularly great.

In connection with the forgery count, our evidence will be that the defendant signed the name of Thomas Benjamin Howell to a check that he had found somewhere, and that he just completely forged it. Everything on it was fictitious and he cashed it at the Be-Lo's grocery store on

The Court: He really

Mr. Lyle: Northhampton

The Court: He really drew and uttered, he's guilty under both counts?

Mr. Lyle: Yes, sir, forgery and uttering. Of course, that was cashed at BeLo's within the city limits of

page 22 } Virginia Beach.

Coming before the Court this morning will be Detective Zello and Detective Robbins. And I have discussed this with the Court before and I believe we reached the conclusion that as far as proving the *corpus delecti* of these—of these offenses it will be sufficient on the plea of guilty to each count to introduce the detective who investigated it and also the confession which I will introduce, the written confession in each instance which I'm satisfied it will

The Court: Have you—Mr. Ansell, have you questioned him about the confession?

Mr. Ansell: I have not, Your Honor, the only

The Court: The Court has to pass on whether or not, as I understand it, whether or not the confession was voluntary before it could be admitted as far as the evidence is

Mr. Ansell: Right.

The Court: concerned, and if it is, if there is no discussion it—it—it will be introduced as part of the case.

Mr. Ansell: Well, I would have a few questions to ask the attorney. To my knowledge it is a

page 23 } The Court: Valid

Mr. Ansell: valid confession, although there are a few questions I would like to ask.

The Court: All right.

Mr. Ansell: The only other point that

The Court: You have been over it with him, his confession?

Mr. Ansell: Oh, yes,- I've talked to the defendant, I haven't talked to the Commonwealth's Attorney about it.

The Court: All right. All right.

Mr. Ansell: The only comment that I would make is ah—I might, just for my own interest possibly save the point, whether this is enough to convict a plea of guilty and a confession without the parties involved placing themselves before the court. I think I—I would hate to stipulate that point.

Detective Michael Zello

The Court: Well, do you—do you agree with the Commonwealth's Attorney that we make it a *prima facia* case in view of the plea of guilty that was sufficient?

Mr. Ansell: Well, of course, my question is, is whether a confession by itself does it make out a *prima facia* page 24 } case. And I'm not certain that it does.

Mr. Lyle: Well, if Your Honor please, I think that's true, a confession by itself is not a *prima facia* case. I think a confession taken in connection with a plea of guilty also, and also the fact that the confession goes into the actual particulars in great detail after the admission of each offense. I think that in view of that, that it probably would be sufficient.

Mr. Ansell: I'm—I'm not saying that it's not, I'm just saying that I've never read a case where it is and I'd like to save the point.

The Court: Well, you put on such evidence as

Mr. Lyle: All right, sir.

The Court: you desire.

Mr. Lyle: Detective Zello.

The Clerk: I don't believe anybody has been sworn yet, Judge.

The Court: I don't believe we did.

Mr. Lyle: Take the stand right up there, please.

(Whereupon, Detective Michael Zello was then duly sworn according to law by the Clerk, he was called on page 25 } behalf of the Commonwealth, was examined and testified as follows.)

DIRECT EXAMINATION

By Mr. Lyle:

Q. Will you state your name, please?

A. Detective Michael Zello, Virginia Beach Police Department.

Q. What is your capacity with the Virginia Beach Police Department?

A. I'm a Detective with the Juvenile Bureau.

Q. As such, what are your duties?

A. To investigate all crimes committed against the state of Virginia and the city of Virginia Beach.

Q. In your ah—first of all, how long have you been so employed?

Detective Michael Zello

A. Approximately four (4) years.

Q. Incident to your duties as detective—ah—first of all, strike that. Were you so employed on—between June 30th and August 4th of this past year?

A. Yes, sir.

Q. Incident to your duties did it come within your duties to investigate the offenses which were embodied

page 26 } in the indictments which were just read by the Clerk

A. Yes, sir.

Q. against George Lee Jones?

A. Yes, sir.

Q. Are you acquainted with George?

A. Yes, sir.

Q. Ah—I believe these indictments charge that these offenses took place over a period from—and I am referring to the ten (10) counts of statutory burglary now, not to the forgery and uttering—took place over a period from June 30, through August 4, 1967, is that right to your knowledge?

A. No, sir, it was up to October the—I mean August the 24th.

Q. That's right, I'm sorry, right, August the 24th. Ah—did you have occasion to arrest the accused?

A. Yes, sir.

Q. And did you have any conversation with him after you arrested him?

A. Yes, sir.

Q. Where was this conversation, where did it take place?

A. It was conducted in my office, sir.

page 27 } Q. How long after he had been arrested was it?

A. Well, it was approximately, I would say, a half an hour, forty-five minutes approximately after he was taken into

Q. After he was apprehended?

A. Yes, sir.

Q. Did you have any conversation with him as to what rights he had?

A. Yes, sir.

Q. Ah—tell the Court the nature of that conversation.

A. I advised him of his rights, do you want me to read

Q. Did he—ah—no,

A. the whole thing?

Q. don't read it, but did he sign a "Waiver of Rights" form?

Detective Michael Zello

A. Yes, sir, I have it right here, sir.
Q. Do you have the original there?
A. Yes, sir.
Q. Who was present when this "Waiver" form
page 28 } was signed?
A. Detective Pace, sir.
Q. And did you actually explain to George Lee Jones everything which is contained on this paper verbally?
A. I read it to him verbally and he also read it, sir.

(Whereupon, said "Waiver of Rights" form was shown to counsel for the accused)

Q. Do you want to introduce this as an exhibit to your testimony, sir?
A. Yes, sir.

The Court: Commonwealth's Exhibit One.

(Whereupon, said "Waiver of Rights" form was received into evidence and so marked by the Court.)

By Mr. Lyle:
Q. Did Jones say whether or not he understood the matters which you had explained to him on that form?
A. He did, yes, sir.
Q. Said he did understand them?
A. Yes, sir.
Q. Do you have the original of that—of any
page 29 } statement he may have given you?
A. I have that, you have it in your possession now, sir. The statement that he made voluntarily to me of his own volition, that he decided that he wanted to give his confession to clear the whole matter up.
Q. And did this confession relate to the ten (10) counts of statutory burglary which were embodied in those indictments which were read by the Clerk?
A. In detail, sir, yes, sir.
Q. All right, I hand you a twelve (12) page form entitled, "City of Virginia Beach, Virginia, Voluntary Information Statement," and I ask you whether this comprises the statement which was given to you by the defendant in the presence of the witness *indictated?*

Detective Michael Zello

A. Yes, sir.

Q. Referring to that if you want to to refresh your memory and not referring to it if you don't need to, will you tell the Court the substance and the detail of what the defendant told you about these ten (10) offenses?

The Court: Let's find out, Mr. Lyle, if—if—this—about the voluntariness of this confession. Was there any promise

Mr. Lyle: Right, right—all right.

page 30 } The Court: of anything before it.

Mr. Lyle: All right.

By Mr. Lyle:

Q. Did you make any threats to the defendant?

A. No, sir.

Q. In any—any form whatsoever?

A. No, sir, no coercion, sir.

Q. Did you coerce him in anyway to make this statement?

A. No, sir.

Q. Did you af—offer him any promise or reward or immunity of any form if he made a statement?

A. The only promise that I made him, that I would tell the Judge that the boy made his confession of his own volition, that he wanted to testify in his own behalf and he wanted to tell everything about this and that I'm going to tell the Judge that he's very cooperative in relating all these offenses. I told him that I would tell the Judge that in court.

Q. Is it your testimony today that this boy was ah—extremely cooperative with you

page 31 } A. Yes, sir.

Q. under these circumstances?

A. Very cooperative, sir.

Q. All right, sir. Ah—did the—in a word, did the statement, oral statement which he gave you appear to be voluntary?

A. Yes, sir, it was strictly voluntary.

Q. Did you have any indication that he did not understand about the rights which you explained to him?

A. No, sir, he understood everything we said to him. Everything was in detail, sir, we went over and over again with him.

Q. All right. And this was in the presence of

A. Detective Pace, sir.

Detective Michael Zello

Q. I see. All right, sir, with that background would you go into the details which were related to you by the defendant?

A. Well, he stated to me that he wanted to clear everything off his chest, that he wanted to tell everything. I told him it was to—it would be to his advantage if he said everything as to what he has done in the past, not relating to one specific burglary that if he has ever had any other in-
page 32 } volvements that I would like to know about it. And he specifically stated that he was involved in numerous counts of burglary within the city of Virginia Beach, and he related each specific incident that he was ah—told about certain stations and ah—he said that he was actually involved in the situation and he specifically stated that —how much money he took from these places.

Q. All right, would you go into each one, if you would? Each offense, relating what the defendant told you about it.

A. Well, I asked him if he was involved in a situation at the Leek Way—Lake Wright Esso Station by it being burglarized on 6/30/67, and he stated, which is located at 5716 Northampton Boulevard, the Lake Wright Esso Station there,

Q. Is that in the city of Virginia Beach?

A. Yes, sir.

Q. All right.

A. On June the 30th, and he said that he was that he did break into the station and—may I refer to my notes?

Q. Yes.

A. I asked him, "Would you explain exactly how
page 33 } you broke into the station?" He stated, "Through a side window." And I said, "Upon entering the building what did you—what did you do once you entered the building?" He said that he went to the cigarette machine. And I said, "Did you take any tires from the building?" He said, "No," he did not. I said, "How did you come into the window?" He said, "I broke the glass."

Q. Was this at night, according to him?

A. Yes, sir.

Q. All right, go ahead.

A. And I said, "How much did you take from the Lake Wright Esso Station?" He said, "Approximately thirty ($30.00) dollars." I asked him, "Did you take anything else from the building?" He said, "No, just money." And then I asked him, "On July 27, 1967, in the city of Virginia Beach in the early morning hours did you go into the Lake Wright

—the Lake Wright Esso Station again?" He stated, "Yes," he did. I says ah—"Did you enter the building?" And he says, "Yes, through a side window." I said, "Did you break the window?" He said, "Yes." "After entering the building what did you do?" He said he broke into the cigarette machine and took money out of the cash reg—into the
page 34 } mach—cigarette machine and took money out of the cash register."

Q. Was this also in the dark hours?

A. Yes, sir, early morning hours, the dark hours. I asked him, "How much money did you take at this time?" He said, "Approximately twenty-four ($24.00) dollars." "Did you take anything else from this building on this date?" And he said, "No," he did not. I said, "Did you leave the same way you got in?" He stated, "Yes," he did. I—I said, "And to your knowledge you did not take anything else?" He said, "Yes," he did not take anything else. "On 7/27/67, in the early morning hours," I asked him, "did you enter the Bayside Elementary School, which is located 1980 Bayside Road in the city of Virginia Beach?" He stated, "Yes," he did. I said, "How did you break into the school?" He stated, "Through the—through the door and a window." I said, "How did you enter the school, by breaking a window?" And he said, "Yes," he did. I said, "Upon entering the school, what did you do next?" He said, "I went into the teachers' lounge and broke into the two soda machines." I asked him, "How much money did you get from these machines?" He said, "Approximately twelve ($12.00) dollars." I said, "Did you take anything else from the school?" He said,
page 35 } "I went through the offices and looked for money but couldn't find any." I said, "Did you leave the school the same way you entered?" He said, "No," he went through a door.

Then I asked him, "On 7/30

Q. Let me ask you—I don't want to interrupt, but did you testify as to whether that was in the nighttime?

A. Yes, sir, it was at nighttime.

Q. It was and it was in the city limits of Virginia Beach?

A. Yes, sir.

Q. All right, go ahead.

A. I asked him, "On 7/30/67, did you break into Thoroughgood Atlantic, which is located at 1608 Pleasure House Road, Virginia Beach, in the early morning hours?" He stated,

"Yes," he did. I said, "Would you tell you—would you tell how you broke into this building?" He said he broke out the two window panes and took an iron bar and busted a bar coming down through the window." I said, "On entering the building, what did you do?" He said he went to the front office and busted open a cigarette machine and took the money from the cash register. "Did you take cigarettes out of the machine also?" He says, "No," he did not. I said,
page 36 } "How much money did you take from this building?" He said, "Approximately thirty ($30.00) dollars." "Did you take anything else from this building?" He said, "No," he did not.

Then I asked him and related to another case, I

Q. In regard to Thoroughgood Atlantic, you say early morning hours, do you

A. It was at night, sir.

Q. You mean it was dark?

A. Yes, sir.

The Court: What was the date of that, Mr. Lyle?

Mr. Lyle: July 30th, 1967, Thoroughgood Atlantic.

The Court: I've got it.

By Mr. Lyle:

A. Then I asked him, "On August the 2nd, 1967, did you break into the Lake Wright Texaco Station located at 5793 Northampton Boulevard, Virginia Beach?" He said, "Yes," he did. I said, "Would you tell us how you broke into the building?" He said he went into the side window and went into the cigarette machine. I said, "Did you take approximately three ($3.00) dollars in U. S. currency?" He said, "Yes," he did. I said, "Did you take a nineteen
page 37 } inch portable TV," said, "name brand Sharp from this station?" He said, "Yes," he did. If I may interject this, I have the television set in the other room which I can get which I have recovered.

Q. Is it within your knowledge what the value of that set was? Approximately?

A. Approximately fifty ($50.00) dollars.

Q. All right. And

A. So

Q. while I'm interrupting you, ah—did he tell you what time of day or night it was that this took place?

Detective Michael Zello

A. It was the early morning hours, he didn't know exactly.
Q. Was it dark?
A. Yes, sir, it was dark.
Q. All right.
A. I asked him, "Did you open up all these three cigarette machines inside?" He said, "Yes," he did. I asked him, "How much money did you take from this station?" He said, "Approximately forty ($40.00) dollars." I said, "Did you take anything else?" He said, "No," he did not. I said, "Did you leave the same way you entered?" He said, "Yes," page 38 } he did.

I asked him again, I said, "On August the 2nd, 1967, in the early morning hours, the dark, did you break into the Lake Wright Esso Station located at 5716 Northampton Boulevard, Virginia Beach?" He said, "Yes," he did.
Q. What was the date of that, now?
A. August the 7th, sir,—on August the 2nd, I beg your pardon, the 2nd. This is the Lake Wright Esso Station.
Q. Oh, yeah, all right.
A. I said, "How did you enter the building?" He said, "Through the side window." I said, "Upon entering the building, what did you do? Did you break—did you break into the Pepsi Cola machine?" He said, "Yes," he did. I said, "Could you tell me how much money you took?" He said, "Approximately eleven ($11.00) dollars." I said, "Was this machine located outside?" He said, "Yes, it was." "Did you break into the machine inside?" He said, "No," he did not. I said, "On this particular station, did you enter the building first?" He said, "Yes," he did. I said, "Did you go outside through the front door and open up the Pepsi Cola machine which was located outside the station?" He said, "Yes," he page 39 } did. I said, "How much did you take from this machine?" He said, "Approximately nineteen ($19.00) dollars." I said, "Did you take anything else?" He said, "No," he did not.

Then I asked him, on August the 8th—"On August the 4th, 1967, did you break into the Lake Wright Esso Station in Virginia Beach?" And he stated, "Yes," he did. "Did you take any tires from this building?" He says, "No," he did not. "Did you take any other things from this building?" He says, "No," he did not. I said, "But you stated you did break into this building on August the 4th, '67?" He said, "Yes, I did." I asked him, "Was Bernard Lawrence the sub-

ject who was with you?" He said, "Yes," he was with him. I says, "On this date, August the 4th, '67, what did you do when you were in the building?" He said he went into the cigarette machine. I said, "How much money did you take?" He said, "Thirteen ($13.00) dollars." I said, "Did you take anything else?" He said, "No, nothing else."

Then I asked him, "On August the 11th, 1967, in the early morning hours, which is dark, did you enter the Bettie Williams School located at 892 Newtown Road, Virginia Beach?" He said, "Yes," he did. I said, "How did you break into the building?" He said, "Through the kitchen door." I said, "By breaking the window?" He said, "Yes." I said, "Once inside the building what did you do?" He said, "I broke into the cola—into the cola machine." I said, "Was this cola—coke machine located in the teachers' lounge?" He said, "Yes, it was." I said, "Did you take any money from this machine?" He said, "Yes." I said, "How much money?" He said, "Approximately two ($2.00) dollars." I said, "Did you" (coughing) excuse me, "Did you take anything else from the Bettie Williams School?" He said, "No."

page 40 }

I asked him, "On August 14th,

Q. Let me ask you, Bettie Williams School is in the city limits of Virginia Beach,

A. Yes, sir.

Q. is it not?

A. It sure is.

Q. Go ahead.

A. I asked him, "On August the 14th, 1967, in the early morning hours, in the darkness, did you break into the Shelton Park Elementary School located at 1700 Shelton Road, Virginia Beach?" He said, "Yes," he did. I said, "Did you break into the south cafeteria door?" He said, "Yes," he did. I said, "Did you break the window in the door?" He said, "Yes." "Did you break open the Pepsi—Pepsi machine that was located in the teachers' lounge?" He said, "Yes." I said, "How much money did you take?" He said, "Approximately fourteen ($14.00) dollars." I said, "Did you take any stamps from the school?" He said, "Yes." I said, "Did you go through the office of this school?" He said, "Yes," he did. "Did you go through the office—did you go through the desks in the office?" He said, "Yes." I said, "Did you take anything else from this building?" He said, "No," he did not.

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Detective Michael Zello

Then I asked him, "On August the 15th, 1967, did you break into Vic's Pizzeria, which is located 4817-B Shell Road, Virginia—Virginia Beach, during the early morning hours?" He stated, "Yes." I said, "Would you tell us how you broke into the building?" He said, "I busted the rear door to the kitchen." I said, "When you entered the building what did you do?" He said, "I went to the cash register and it was already open and cash was in it and I took it." I said, "Did you bust into the pool table?" He said, "Yes," he did. I said, "How much money did you take from the pool

page 42 } table?" He said, "I have no idea." I said, "Did you take anything else from the Pizzeria?" He said, "Yes." I said, "What did you take?" He said, "I busted into the jukebox." I said, "How much did you take from the jukebox?" He said, "Approximately twelve ($12.00) dollars." I said, "Did you take anything else?" He said, "No."

On August—I asked him, "On August the 27th, 1967, did you—" is this significant in reference to the bicycles?

Q. No, ah—

A. A misdemeanor?

Q. no, he's not charged with that now. Was there any conversation in regard to the Jamaica Inn, or are you—?

A. Yes, sir, I'll go into that. I said, "On August the 24th, 1967, did you break into the Jamaica Inn, located at 1848 Diamond Springs Road, Virginia Beach?" He stated, "Yes." I said, "How did you break into the building?" "Through the back door." I said, "What did you use?" "A crowbar." I said, "Upon entering the building what did you do?" "I went to the jukebox and broke it open." I said, "Would that be the floor model jukebox?" He said, "Yes." I said, "Did you also break the three counter type jukeboxes?"

page 43 } He said, "Yes," he did. I said, "Did you break into the cigarette machine?" He said, "Yes." I said, "Did you go through the office of the Jamaica Inn?" He said, "Yes." "Would you tell me did you—did you take anything from the office?" He said, "No." I said, "How much money did you take from the machines?" "About fifty ($50.00) dollars." I said, "Did you take a butcher knife?" He said, "Yes," he did. I said, "Did you take anything else from the building?" He said, "Two (2) cups of chocolate milk, a Bologna sandwich." I said, "Did you take anything else from the Jamaica Inn?" He said, "Two packs of chewing gum." I said, "Is that all?" He said, "Yes."

Detective Michael Zello

I said, "Of all these burglaries that you have stated to me was Bernard Lawrence with you on these occasions?" He said, "Yes, he was." "You say that he did help you break into all these—all of—into all of what you have stated?" He said, "Yes." I said, "What particular tool did you use to break in the windows and doors of these building?" He said, "A crowbar, a hammer and a screwdriver."

I said, "Do you make this admission of your own free will, George?" He says, "Yes." I said, "Why do you make this admission of your own free will, George?" He
page 44 } said, "I want to clear myself and get all—all of this rap and get all—get all—get all of these things I have done off my mind." "You have been away from your mother for seven (7) years?" He said, "Yes," he had. "You really never had a home?" He says, "No." I said, "Do you feel that by not living at home that this has caused you to get into trouble and commit these offenses?" He says, "Yes." I said, "And by confessing these charges against you, you feel that you want to serve your time and come out a better citizen?" He said, "Yes." I said, "You stated that after you have come out—that you are confined in a penitentiary that you want to learn a trade so that you may come out and get yourself a good job?" He said, "Yes." "How have you been treated by this department?" He said, "Good." I said, "Have I ever made any promises to you?" He said, "Yes." I said, "What may I—what—in what way have I made a promise to you?" "You told me that you would help me the best way that you possibly can and that you would tell the Judge that you think I would be better off if I told the whole truth." I said, "Have you been threatened by—of anything by me?" He said, "No." "You stated specifically that you make this of your own free will and admission?"
page 45 } "Yes." "And you will sign this statement of your own free will?" "Yes." "That no force was made for you to sign this statement?" "No."

And that's the end of that.

Q. Detective Zello, would you review that—that statement again and tell me if you have testified about an alleged statutory burglary on June 30th, of 1967, at Lake Wright Esso?

A. On June 30th, 19

Q. It may be that you have. If you have just say so.

A. O. K.

Q. You have?

Detective Michael Zello

A. I believe I—just a minute. I don't know, I believe I started off, I'm not sure, but I can relate it again just to be positive.

Q. Why don't we just go ahead, and do that.

A. On June 30th, I questioned him, I asked him a question, "On June the 30th, 1967, between the hours of 5 A. M. and 6 A. M., did you enter the Lake Wright Esso Station, located at 5716 Northampton Boulevard, Virginia Beach?" He said that he did, "Yes." I said, "Did you break into

page 46 } this station?" He said, "Yes." I said, "Would you explain exactly how you broke into the station?" "Through the side window." "Upon entering the building what did you do once in?" He said, "I went to the cigarette machine." "Did you take any tires?" "No." "How did you come into the window?" "I broke the glass." "How much did you take from the Lake Wright Esso Station?" "Approximately thirty ($30.00) dollars." "Did you take anything else from the building?" "No, just money."

Q. Well, now, Detective, incident to your duties on these cases did you have occasion to investigate each one of these break-ins?

A. Well, through the Offense Reports, yes, sir.

Q. Does it come within your knowledge that these break-ins actually did occur?

A. Yes, sir.

Q. Have you—have you looked at the physical layout of these—any of these places?

A. Some of them I did not, sir. The officers who were—who investigated the ah—ah—were—had knowledge of this, sir, according to the reports.

Q. Do you remember which ones you actually

page 47 } went to the scene?

A. I went to Jamaica Inn and Vic's Pizzeria.

Q. And you determined visually that a break-in had been

A. Well, they had

Q. committed there?

A. They had—I went there after they made the repairs because a restaurant ah—ah—except, I take that back, sir, just the Jamaica Inn is the only that I actually saw physical damage, sir.

Q. What was the damage there?

A. To the doors, sir.

Q. What could you see?

Detective Michael Zello

A. The door was pryed open completely, sir.
Q. Was it damaged?
A. Yes, sir.
Q. O.K. That's all I have.

CROSS EXAMINATION

By Mr. Ansell:

Q. Detective Zello, towards the end of this statement, ah—and you said that you would speak to the Judge,
page 48 } did you tell the defendant, George Jones, that it would be easier on him if he made a statement?

A. I said to him that it would be easier for him if he would —told the whole truth.

Q. Now, what did you mean by that?

A. *I* said, "You told me that you would help me the best way that you possibly can, that you would tell the Judge that you think I would be better off if I told the whole truth." I said, it was to his best interest if he told the whole truth and that let the Judge decide as to what action should be taken. I said, "If you spoke in your behalf and you told the whole truth and you admit that you are telling the whole truth, son," I said, "it will go easier for you in the long run by telling everything."

Q. All right, sir. Ah—who was present when the statement was given?

A. Detective Pace, sir.

Q. Just the two of you?

A. That's right, sir.

Q. There was no—ah—no one to take the statement down?

A. Well, there was ah—there was a ah—a young
page 49 } lady, a secretary, but ah—actually she just typed it up, I mean, she did not—she did not go to details on this.

Q. Well, was this stenographer with you while he was testifying and taking it down or did you take it down?

A. I was present, sir, when he was being questioned and I just had it typed, sir, and then I had Detective

Q. Well, who—who—who wrote it down?

A. Who wrote it down?

Q. Yes.

A. Miss Hester, Miss Hester,

Q. Well,

A. Mrs. Hester.

Q. what I'm trying to get at, did you take it on a tape machine or did you—or did she acting as a stenographer

A. She was acting as a stenographer writing it, in other words, when the question and answer and he was present and I was present and she was present and she was writing it down so then I asked her to type it out. Again after, before it was any signatures involved Detective Pace and ourselves went over the statement completely and I says,
page 50 } "Is this correct and in your estimation what you said?" And he says, "Correct," and he signed it.

Q. O. K. Ah,—let me see! All right, now. You've known this boy's family for sometime, hav—or known of him, have you not?

A. Well, I've heard—I've heard of George Lee Jones, this is the first time I've ever had an opportunity to meet him.

Q. That's all right, I'll ask that of Officer—Detective Pace. I think you did say that he cooperated with you fully?

A. Very much so, sir.

Q. And let me ask you this, was many of these offenses that we are here on today, would they have gone unsolved if this boy had not volunteered this information to you?

A. It would have been very difficult for me to solve them, sir.

Q. And do you, in your opinion, think that he wants to go on and learn a trade and come out and make something of himself?

A. I believe that very sincerely.
page 51 } Q. All right, sir. That's all I have.

RE-DIRECT EXAMINATION

By Mr. Lyle:

Q. Detective, have you reviewed, I assume you have, the typewritten statement which is signed by—which—excuse me, the typewritten statement which purports to represent the statement given by him to you?

A. Yes, sir.

Q. Does it conform to the interview which you actually had with him?

A. Yes, sir.

(Whereupon, referenced statement was shown to counsel for the accused.)

Mr. Ansell: I have no objection.

Mr. Lyle: If Your Honor please, I'd like to introduce this as Commonwealth's Exhibit, I believe number *three.*

The Court: Commonwealth's Exhibit Number *Three.* (Actually is number two.)

(Whereupon said statement was received into evidence and marked by the Court as Commonwealth's Exhibit
page 52 } Number Two.)

Q. I'll ask you one more thing, Detective Zello, did you also tell him that what he said could be used against him?

A. Yes, sir.

Q. Could be used against him in court.

A. Yes, sir, when I advised him of his right, sir.

Q. And did he understand that?

A. Yes, sir.

Q. Did he say he understood it?

A. Yes, sir, he understood it and read it and signed it.

Q. All right, I believe that's all.

The Court: Officer, the nineteen inch TV valued at fifty ($50.00) dollars at the Lake Wright Texaco Station, has that article been identified by the owners as coming from those premises?

A. Yes, sir.

The Court: Now, how about the ah—there was a butcher knife from the Jamaica Inn, has that knife been identified by the owners of Jamaica Inn as being

A. I haven't recovered it, sir.

page 53 } The Court: Never recovered?

A. No, sir.

The Court: Well, did you recover anything else other than what I have mentioned, the TV SET

A. I recovered money, sir, but it was from the other boys, sir, that stand on indictment, sir.

The Court: Well, now, you—you—you said you told him it was better for him to tell the truth, that was after he decided to plead guilty?

A. Ah—when we was in the course of the conversation prior to

Detective Michael Zello

The Court: Well, did you induce him in anyway to make this statement?

A. No, sir, other than the fact that I told him that I would tell the Judge that he was honest with me, "If you tell me everything, son," he said had decided that he wanted

The Court: Well, did he first tell you he wanted to tell you everything?

A. Yes, sir, he sure did, sir.

page 54 } RE-CROSS EXAMINATION

By Mr. Ansell:

Q. Let—let me get that straight, if I might, he told you that he wanted to make this statement before he—before you ever made any statement to him that it would go easier?

A. When I—when I warned him of his rights, I asked him, said that I was going to question him with reference to certain things and certain burglaries. And I said, "Well, do you want to talk to me about it?" He said, "Yes," that he did. I said, "Now, I'm going to ask you some questions in relating to these things," I said, "now, you don't—" as according to his legal rights I explained to him exactly what was—anything that he'd say would be held against him or for him and so he said that he wanted to tell everything. I said, "OK, let's go through it," and he started to relate everything that happened. And then I told him after he made all these statements and it was a few incidents that he did not—couldn't remember at first, then I said, "Is there anything else, George, that you can—that you can remember that you have done?" I said, "Because you said to me that you wanted to get it off you—off your chest and you wanted to tell the
page 55 } whole truth," I said, "because if you tell the whole truth," I said, "it would go good for you in court by me telling the Judge that you were honest and cooperative and all these facts," I says, "it will go easy for you." I said, "Just throw yourself at the mercy of the court anything as you—as your lawyer will define for you," I says, "I'm sure he'll help you and the Judge would take a very good view of it," so he started remembering a few other incidents and as a result I asked him if he wanted to make a statement and he said that he did, the written statement.

Q. All right. Let me ask you one more question. This TV, ah—who was it identified by?

A. Mr. Lamb.
Q. Mr. Lamb?
A. That's right.
Q. Was that in your presence?
A. Yes, sir.
Q. All right.

RE-DIRECT EXAMINATION

By Mr. Lyle:

page 56 } Q. Just to clarify this, you've already testified that you advised him as to all matters which appear on this "Waiver of Right" form, and among those rights are a fact, or that he has a right to remain silent. Did you expressly tell him that verbally?

A. Yes, sir.

Q. Did you tell him that before he made any statement to you?

A. Yes, sir, I expressed it to him verbally and I had him read it also, sir.

RE-CROSS EXAMINATION

By Mr. Ansell:

Q. Let me ask one-one more question, then we'll let you go. Did he ever indicate to you that he did not want to make a statement to you?

A. Never. In fact, he said he wanted to tell everything, he says, "I know I'm in hot water and," he said, "I'm going to tell you everything," that's what he said.

The Court: And that's before you had said anything to him?

A. After I had warned him of his rights, sir.

The Court: I understand. All right.

page 57 } By Mr. Ansell:

Q. Thank you!

Mr. Lyle: Detective Pace.

Detective Charles C. Pace

(Whereupon, Detective Michael Zello was excused from the witness stand, and Detective Charles C. Pace who had previously been duly sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

DIRECT EXAMINATION

By Mr. Lyle:

Q. Would you state your name, please sir?

A. Detective Charles C. Pace, Virginia Beach Police Department.

Q. How long have you been so employed?

A. Ten (10) years, sir.

Q. Did you have any connection with the case of the Commonwealth against George Lee Jones?

A. Yes, sir, I did.

Q. Did you have occasion to be assigned to the case which we have been discussing here today? Or the cases?

page 58 } A. Yes, sir, I was.

Q. In what capacity were you assigned to the case?

A. A numb—ah—a few of these cases I was assigned to by myself. Of course, when George Lee was picked up Detective Zello and I worked them all together.

Q. In other words, Detective Zello's investigation of the cases was done with you?

A. Yes, sir.

Q. And were you present in the room when he was advised of his rights by Detective Zello?

A. Yes, sir, I was.

Q. And were you present when he signed the "Waiver of Rights" form?

A. Yes, sir, I was.

Q. And were you present when he made the statement which Detective Zello has just related to the court?

A. Yes, sir, I was.

Q. And does your signature appear as a witness on these documents?

A. Yes, sir.

Q. Have you been present in the courtroom and heard Detective Zello's testimony relating to the explana-

page 59 } tion of his rights, the waiver of his rights, and the statement made by the defendant?

Detective Charles C. Pace

A. Yes, sir, I did.

Q. Did he correctly relate what happened, as far as you remember?

A. Yes, sir, he did.

Q. Do you remember that evening?

A. Yes, sir, I do.

Q. And do you know in any instance where—where ah—Detective Zello's statement has not been correct or has been ah—incorrect?

A. It has been correct.

Q. And is there anything that you can add to it that Detective Zello may have—may not have recalled?

A. No, sir.

Q. Did you have occasion to ah—go to the scene of any of these ah—burglaries and see any damage or break-ins visually?

A. Yes, sir, I went to the ah—Jamaica Inn and ah—the Lake Wright Esso on two occasions.

Q. Ah—could you see visually the damage which had been done by the break-in at the Jamaica Inn?

page 60 } A. Yes, sir, ah—the rear door was still damaged.

Q. What about the Lake Wright Esso?

A. Now, on the filling station, the window had been repaired, I believe, when I went there, but I could see the broken glass around the window on the ground.

Q. Is it within your knowledge as investigator in the case that these break-ins did occur?

A. Yes, sir.

Q. How long have you known this boy?

A. I believe I've known George since he was about twelve.

Q. And how old is he now?

A. He's eighteen now.

Q. Could you tell, based on your acquaintance with him whether he understood what rights and what matters were being explained to him by Detective Zello?

A. Yes, sir, I'm sure he understood.

Q. Did he say he did?

A. Yes, sir, he did.

Q. Did he give any indication that he did not understand what the story was and what his rights were?

page 61 } A. No, sir.

Q. Did he give any indication that he was not giving that statement voluntarily?

A. No, sir.

Q. Was there any indication that he was being forced or coerced or threatened in anyway?

A. No, sir, no indication.

Mr. Lyle: Your witness.

CROSS EXAMINATION

By Mr. Ansell:

Q. Did ah—you make any promises to George Jones to make his statement?

A. No, sir, I did not.

Q. And did he ever indicate to you that he did not want to make a statement from the time you first talked to him until he made the statement that's been introduced?

A. No, sir, he did not. This was one of the times that I've seen George when he wanted to talk about something.

Mr. Ansell: All right, sir. Thank you!

page 62 } The Court: In your presence did Officer—Detective Zello make any promises to George Jones in order to get his confession?

A. No, sir, only that what he stated. That was after we had interviewed him about the Jamaica Inn and some other things that he hadn't remembered and when Detective Zello told him he thought it was better for him since he had decided to tell the truth—he mentioned the fact that he did want to tell the truth and Detective Zello told him that he thought it would be better for him, and, of course, that he would tell everybody concerned that he was cooperative.

The Court: All right.

RE-DIRECT EXAMINATION

By Mr. Lyle:

Q. In other words, that was the only—only promise that Detective Zello made to him was that he'd tell the court that he was cooperative?

A. Yes, sir, that was all he promised him.

Q. All right, that's all. —Let me ask you one more thing.

Detective R. L. Robbins

Were you also present when Detective Robbins interviewed him with relation to this forgery count?

A. No, sir.

page 63 } Q. You weren't? Well, OK, you—you can stand down.

(Whereupon, Detective Charles C. Pace was excused from the witness stand.)

Mr. Lyle: Detective Robbins.

(Whereupon, Detective R. L. Robbins who had previously been duly sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

DIRECT EXAMINATION

By Mr. Lyle:

Q. Would you state your name, please sir?

A. Detective R. L. Robbins, Virginia Beach Police Department.

Q. How long have you been employed with the Virginia Beach Police Department?

A. Two and one-half years, sir.

Q. In what capacity are you employed now?

A. Detective, assigned to the Detective Bureau.

Q. And what are your duties as a detective?

page 64 } A. To investigate these offenses against the state and the city.

Q. Did you have occasion to investigate a charge of forgery and uttering against George Lee Jones allegedly committed on August the 7th, of 1967?

A. Yes, I did.

Q. Did you have occasion to interview the accused after he was arrested?

A. Yes, sir, I did, sir.

Q. First of all, did you fully investigate the charge?

A. Yes, I did.

Q. And did it come within your knowledge that a forgery was committed?

A. Yes, sir.

Q. All right, now, where did you talk to the accused first, after he was arrested?

Detective R. L. Robbins

A. In the Police Headquarters here at Princess Anne Courthouse.

Q. How long was that after he was apprehended?

A. Ah—he was in custody at the time.

Q. Oh, he was in custody on these other charges?

page 65 } A. Yes, sir.

Q. All right, how long did you talk to him before he made a statement to you?

A. He was talked to on two different occasions, sir.

Q. By you?

A. Yes, sir.

Q. All right. Prior to your discussions with him relating to this offense, did you make any statement to him regarding his rights?

A. Yes, sir, I did.

Q. What did you tell him?

A. I advised him of his rights, read it to him and showed him the form to read.

Q. And do you have the "Waiver of Rights" form present with you?

A. Yes, I do, sir.

Q. Did you orally explain to him everything that appears on this form?

A. Yes, sir, I did.

Q. Did you explain to him that he had the right to remain silent?

page 66 } A. I did, sir.

Q. And that any statement he made could be used as evidence against him in court?

A. Yes, sir.

Q. And that he had the right to consult with an attorney or to have an attorney present?

A. Yes, sir.

Q. And was he informed that if he was without funds to employ an attorney the court would appoint one for him?

A. Yes, sir.

The Court: Is it not 4 or 5?

Mr. Lyle: Yes, sir, I think it's 5, Judge, but I'm not—I might be mistaken.

The Court: We'll call it 5.

Recorder: Three.

The Court: Huh? The confession is Number 3.

Mr. Lyle: This one.
The Court: Don't have any three. Maybe I can't count.
Recorder: I'm sure this is 3.
The Court: Call it 3.
page 67 } Mr. Lyle: All right.

(Whereupon, said "Waiver of Rights" form was received into evidence and so marked by the Court.)

By Mr. Lyle:
Q. Subsequent to your advising him of the rights contained on the form which was just introduced into evidence did the defendant choose to make any statement to you?
A. The—ah—like I said, he was interviewed two different times by myself. The first time was on the 6th day of October. . . .
Q. All right, let's take that one first, then, and let me ask you this. Did he make a statement to you relating to the offense at that—on that date?
A. Not to the offense of forgery, no. He did
Q. O.K., well, let's move on to the next one, then.
A. On the ah—

Mr. Ansell: Wait—wait a minute, I'd like to ask him something about that date, if I might, Judge.
The Court: Let him finish, he hasn't finished with him—you haven't finished with him, yet, have you?
page 68 } Mr. Ansell: Well, he's going into
Mr. Lyle: No, sir, I
Mr. Ansell: He's going into a confession now, and I'd like to ask the
The Court: Well, yeah, ask him about the voluntariness first, *wont* you?
Mr. Lyle: Yes, I would move—as I understood his testimony, the first interview related to an offense which is not on trial here today.
The Court: Not related to this.
Mr. Ansell: Well, all I want to know is if he asked him about the offense that he is on trial for on October the 6th?
Mr. Lyle: Right.

By Mr. Lyle:
Q. All right, let me ask you that. Did you on October the

6th, ask him anything about the charge of forgery for which he is on trial today?

A. Yes, sir, he was asked.

Q. Oh, he was. All right, and ah—prior to that had you advised him of the rights which we have just dis-
page 69 } cussed?

A. Yes, sir.

Q. All right, what did he tell you?

A. He ah—he denied any knowledge whatsoever of forging or uttering a check at the time. However, he did make the statement that he had three or four of these checks that had been forged in his possession. He stated that he had found these checks in a vacant house at 5792 Burton Station Road. However, he denied any knowledge whatsoever of forging or passing those checks at that time.

Q. All right, sir. Did you have a subsequent interview with him?

A. Yes, sir.

Q. Prior to that interview did you explain the same rights to him?

A. Yes, sir, I did.

Mr. Ansell: Your Honor, I'm going to object at this time to any statements that he made with regard to the forgery and uttering of this—of this check in question here today and ah—the *Miranda* case says that if a man at anytime indicates that he does not want to talk to the police ah—with regard to a particular offense that they are not to come back at a later time and
page 70 } The Court: Well, if he volunteers they are not supposed to knock him down and keep him from telling them.

Mr. Ansell: Well, they are not—they are not supposed to come back every two days looking for a voluntary statement either, Judge.

The Court: Well, let's see

Mr. Lyle: Well, let's just ask him, if I may, let me ask him about the background which led up to the second interview.

By Mr. Lyle:

Q. If you can clarify that.

A. On October the 8th, George G—Lee Jones was brought from the jail over to the Juvenile Detective Bureau and at

this time he was interviewed by Detective Zello and myself again concerning these forged checks. He at this time was again advised of his rights and at this time he wanted to make a statement and gave me a confession that he had had this check, that he did fill it out, that he did forge the name of Mr. Howell to this check and he did cash it at the Be-Lo Store.

Q. All right, now, let me anticipate a defense question, if I may, and ask you why—why did you go back
page 71 } for the second interview when he refused to give you a statement at the first one?

A. Well, I ah—I felt at the first time that ah—that George was not telling me the truth, because he did relate that he did have a check in his possession and I had a witness that identified George as the one that passed that check.

Q. Did he at that time during—ah before the second interview or—or during the second interview indicate in anyway that he didn't want to make a statement?

A. No, sir.

Q. Or that he wanted an attorney present?

A. No, sir.

Q. Or that he didn't want any further interview with the police?

A. No, sir, he did not.

Q. At that time did he appear to you to fully understand the rights that you explained to him?

A. Yes, sir.

Q. And among those rights ah—was the right to remain silent?

A. Right.
page 72 } Q. Did you expressly tell him that verbally?
A. Yes, sir.

Q. And you didn't—in other words, you didn't just hand him the form to sign—did you read everything on that form to him?

A. Yes, sir, explained it to him at different times.

Q. All right, sir, with that—with that foundation I'd like to go into the

Mr. Ansell: I object to it, Judge. I think it's ah—

The Court: Well, let's see,

Mr. Ansell: I don't have a copy of *Miranda* with me but

The Court: Let's find out what he did ask him on the second occasion, to see if he complies with *Miranda.*

Detective R. L. Robbins

Mr. Lyle: All right, sir. He's already, I think, testified generally.

The Court: He said—he said to remain silent that he'd advised him of his rights. But let's see what he did advise him of.

Mr. Lyle: All right.

page 73 } The Court: I mean spell them out.

Mr. Lyle: All right.

By Mr. Lyle:

Q. Restricting yourself to the second interview which you had with Jones, and restricting yourself to the rights which you advised him he had, just tell the Court without reference to any form or anything what you told him.

A. Well, he was advised of his rights before any questioning was done.

Q. What rights?

A. His rights on the "Rights" form.

Q. All right, just tell the Court what those rights are.

A. That if he wished he could remain silent, didn't have to say anything to us without a lawyer present and anything that he did say could be used for or against him, and that if he did not have money for an attorney that the court would appoint one for him.

Q. Were each of those rights expressly explained to him verbally?

A. Yes, sir.

Q. And ah—did he appear to you to understand

page 74 } each and everyone of them?

A. Yes, sir, he did.

Mr. Lyle: If Your Honor please, I don't know what else we can show to ah—

The Court: I think you

Mr. Ansell: I'd like to go into it a little bit more myself—

The Court: Well, when he has finished with him, you can.

Mr. Lyle: Yes, sir, as far as laying the foundation for it I'm finished, sir. I think he's gotten a little bit into the confession already.

Mr. Ansell: I realize he has, but we are before the Court and I think the Court can—

Mr. Lyle: Right, I understand that I—I—

Mr. Ansell: But ah—

Mr. Lyle: Ah—you've got a right to cross-examine him at this point.

Mr. Ansell: Well, I'd like to.

page 75 } CROSS EXAMINATION

By Mr. Ansell:

Q. Those are the rights, word for word, that you advised him of?

A. Went by that form, yes, sir.

Q. All right, and ah—had you looked into the fact that he'd already had an attorney appointed for him? At that time?

A. No, sir, I did not, no.

Q. You didn't know that he had an attorney?

A. No, sir.

Q. You knew that he had a whole lot of—of charges against him—

A. I understood that—

Q. at that point?

A. there were some burglary charges, yes, sir.

Q. And how long—how long had he been in jail at that time? Do you know?

A. I do not, no, sir.

Q. Well, I mean, it's—the only thing I'm getting at is, you just didn't know he had an attorney at that time?

page 76 } Or did you look into it?

A. I did not look into it, no, sir.

Q. All right, and he—and he did tell you—he denied any knowledge of ah—a forgery on—on October the 6th, and told you that he didn't want to make a statement on that date?

A. He didn't say he didn't want to make a statement, he just denied knowing anything about forging these checks.

Q. All right, sir. Judge, I

A. He

Q. Excuse me, go ahead.

A. He didn't indicate that he didn't want to make a statement, that he did.

Q. Well, he did deny it though, did he not?

A. Denied

Q. Did he

A. forging the checks.

Q. All right. Judge, I—I have to renew my objection to

Detective R. L. Robbins

The Court: Well, he recanted on the second time. There is nothing to say that he can't talk the second time
page 77 } and he volunteered all of this to this gentleman.

Mr. Ansell: He—he may have volunteered it, Judge, but ah—I

The Court: If he volunteered it, what's the reason the Officer can't testify to it?

Mr. Ansell: Well, because *Miranda* says that if he at one point if he indicates that he doesn't want to talk about it—well, when you deny it you are indicating that you're not—that you're not guilty and don't want to talk about it and they send over there and get this boy two days later and ah—ah—we don't have a new "Rights" form signed, we've got—we've got the old one dated again. And the boy had an attorney at that time

The Court: Don't have to be signed.

Mr. Ansell: Sir?

The Court: Don't have to be signed.

Mr. Ansell: Well, they don't have to be signed, nothing wrong with that, only

The Court: Oral testimony is just as good.

Mr. Ansell: Well, they are trying to show us how well they prepare these people before they get a statement, signing them and—that we've heard up to this point.
page 78 } However, this particular time they merely redated the old one.

The Court: Well, as I understand the evidence given by this Officer was that this—that this accused showed a willingness to talk about this case and began to volunteer some stuff, and he said, all right, "I got to advise you," and he advised him again, orally.

Mr. Ansell: Judge, Judge,

The Court: Isn't that his testimony?

Mr. Ansell: It might be, however, I—I feel that it's out of the realm when you bring a—bring an eighteen year old boy back two days later after he told you he hadn't anything to do with it. This is exactly what *Miranda* was decided for, so that—so that they *wont* keep these people time and time again.

The Court: Well, I've got two confessions, now, which one am I to go by? Isn't the credibility of it up to the Court? I mean—

Mr. Ansell: All right, well, just so—

The Court: if they are

Mr. Ansell: I'm noting my objection.

The Court: All right, I overrule it—overrule
page 79 } your motion.

Mr. Lyle: You are ruling on it?

The Court: Yes, I—I think he can testify.

Mr. Lyle: All right. Just for the record I'd like to state ah—he's raised one point which I think is interesting, that is that a court appointed attorney had been appointed at the time the interview was

The Court: But he didn't know it.

Mr. Lyle: made. Right, but in the most recent advance sheets there appears the opinion of *Collins against Commonwealth* which I happened to *loose* on that very point and the fact that an attorney was appointed at the time the interview was made is—has been held by the Court of Appeals as being irrelevant. I'd just like for the record to show that.

The Court: Well, he asked him about counsel

Mr. Lyle: Thank—thank you so much.

The Court: if he asked him about counsel and he didn't disclose it what else can he do?

Mr. Lyle: I know that.

The Court: There's nothing that I know of that he's got to go out and find out.

page 80 } Mr. Ansell: The only—the only thing he could do is not question him anymore. I mean how—how many times are we going to question a person. That's what it boils down to. If he'd not done it on the 10th—on the 8th, maybe they'd have had him back on the 10th, and the 12th, and the 14th, until finally he—he so voluntarily gave his statement that ah—ah—they didn't have a case.

The Court: Well, I—I think your man, the accused knew what he was talking about. If you look at his report from the Probation Officer I think you'll find that he—

Mr. Ansell; Well, I'm just trying to save the

The Court: I understand.

Mr. Ansell: point.

The Court: All right, you've saved the point. All right Mr. Lyle.

By Mr. Lyle:

Q. All right, Detective Robbins, with that background would you tell the Court in detail what the accused told you, relating to his alleged commission of forgery and uttering?

Detective R. L. Robbins

A. Yes, sir. He said he had been helping an
page 81 } aunt move some of the furniture from her residence which was over on Pretty Lane off of Burton Station. He'd been clo—carrying her clothing from her home wrapped up in a sheet, and when he returned back to that residence that day he found these checks laying on the ground which he picked up. He stated that he had carried these checks in his possession for about two days and then he decided to cash them.

Q. How did he do that?

A. He said, "I filled out the check, dated 8-7-'67, signed the name of Thomas Benjamin Howell to the check," and at that time he went to the Be-Lo store on Northampton Boulevard and cashed that check. He purchased groceries and—stated that he received groceries and approximately twenty ($20.36) dollars and thirty-six cents in change from that check.

Q. Did he actually say he received cash in change?

A. Yes, sir.

Q. And the Be-Lo that he was referring to is in the city limits of Virginia Beach?

A. Yes, it is, yes, sir.

Q. And did he tell you whether he'd actually done the forging itself within the city limits?

page 82 } A. Yes, sir.

Q. It was done at the Beach?

A. Yes, sir.

Mr. Lyle: That's all I have.

Mr. Ansell: I don't believe I have anymore questions.

The Court: You can stand down, sir.

(Whereupon, Detective R. L. Robbins was excused from the witness stand.)

Mr. Lyle: That's the Commonwealth's case, Your Honor.

The Court: Do you want to

Mr. Ansell: Your Honor, ah—I realize we are here on a plea of guilty, however, I want to make a motion at this time, I don't believe we've got a case that the Court can rule on before us. We've—we've merely got confessions of the defendant and—and really nothing else. We've—we've heard from no—from none of the parties that were supposedly broken in

—the places that were broken into. We've heard from no one with regard to this—this check other than the Police Officer himself, which I feel that even if we had no offense page 83 } report presented into evidence at this time, and even if we did, even if they were in I would have to take the position that it was hearsay, that ah—in order to prove the *corpus delicti* we've—we've got to have the people that were injured here. And I say, it's a novel point, this boy came here and he wants to plead guilty, I'm just as far as his court appointed counsel is concerned looking out for himself, and I—I've never seen any cases to the effect that the police officers with a confession can prove a *prima facie* case. And I'm of—I'm of the personal opinion sitting right here now that they can't. Now, with regard to a couple of these things, the Jamaica Inn for one they did go and see some physical evidence there, however, there's been no statements to the Court that I've heard either offense reports or anything put in as to—as to what was taken or what have you from the immediate—the individual places other than what this defendant told them. Ah—so I take the position that even though—even though in that particular one place where they saw some doors open and I think there was one—one, Lake Wright Esso, where that window had been repaired, my notes show, I don't believe that a *prima facie* case has page 84 } been presented and would have to move to strike the Commonwealth's evidence at this time.

The Court: I'll hear from Mr. Lyle.

Mr. Lyle: If Your Honor please, of course, this—this about what was taken, I think it's irrelevant as to what was taken from what store because the charges here are for burglary and not larceny, petit or grand. I think that the fact that something was taken is evidence that burglary was committed. But primarily, I would like to tell the Court that, as the Court well knows, it used to be the practice I suppose here, I know where I used to practice that on a plea of guilty there was no evidence at all that a statement by the Commonwealth's Attorney and a plea of guilty has been considered, of late, the better practice to at least put on a case to prove the *corpus delicti.* And I'll concede to the—to the defense and the Court that a confession standing alone is not enough to carry us past "the 50 yard line" so to speak, but it's my thought and I firmly believe that a confession taken together with the defendant's plea of guilty to each indictment which was read to the defendant is sufficiently corroborated, so to speak, to make us to have proven a *prima facie* case. It's

for this reason that I took this up with the Court,
page 85 } I think, last week to try to save some of the
Court's time. We had the witnesses all subpoenaed and, of course, could have them here in a matter of a short time. Some of them were here this morning, but I just very strongly feel that on a plea of guilty, a confession established by the firm evidence which we put on today, plus his plea of guilty is sufficient.

Mr. Ansell: I only have one more statement to make that in a criminal trial we don't just get past the 50, they've got to go over the goal line, Judge, and I'm afraid that they are just not there at this point.

Mr. Lyle: That's not true, though, on a plea of guilty I think all we've got to do is prove a *prima facie* case. If we have to prove beyond a reasonable doubt on a plea of guilty I'd have to agree with him.

The Court: Well, I'll overrule your motion.

Mr. Ansell: All right, I'd like to save the point.

The Court: To the rule of the Court you except. All right.

Mr. Ansell: We have no evidence, Your Honor.

page 86 } THE DEFENSE RESTS!

Mr. Lyle: If Your Honor please, I believe the Court has read the report which was filed on this boy that was treated as a juvenile—he was treated in Juvenile Court and it was adjudged that he be treated as an adult in this court, and I think Mr. Turner's conclusion that he is, as he puts it, has thoroughly utilized and used up the facilities of the Juvenile Court and that he should be treated as an adult. And I don't think we can ignore the fact that he was cooperative, that he is only eighteen, just turned eighteen, that he was cooperative. I don't think that we can ignore the fact that the amounts involved in these various offenses are relatively insignificant. However, we do have the serious charge of burglarly of the storehouse in the nighttime in each instance and the forgery of a check to the prejudice not only of the drawer but of the grocery store involved in the forgery instance. And I do think that some penitentiary time is in order. Ah—

The Court: Let—let—let me ah—Stand up, Mr. Jones. Now in accordance with your plea this morning and the evi-
dence here produced in court, the Court finds you
page 87 } guilty of the statutory burglary, the ten different
indictments; it also finds you guilty of one count

of—of—of uttering and one count of forgery, drawing and four counts.

Now, I'll hear from ah—hear from counsel before I pronounce sentence. So you sit down.

Mr. Lyle: Did you want to hear from the Commonwealth?

The Court: Yes, I want to hear from the Commonwealth as to the—I found him guilty now, and I want to hear from the Commonwealth as to proper punishment, if any, any concurrency or any consecutive punishment. I want to hear from you along that line.

Mr. Lyle: All right, sir. Of course, the Court well knows the background facts and then, of course, have read the report, so as far as I'm concerned I think that in view of the numerous offenses and in view of the background I think some penitentiary time is definitely in order. However, I think that in view of his cooperativeness and the deprived background from which he came I think, both Detectives in the case have communicated this to me, I'm sure that the probation report shows the same thing, I would think

page 88 } the ends would justly be served by two years in the penitentiary to run concurrently on each count of each indictment. That would be my thinking on it.

The Court: Well, let's see that's ah—

Mr. Lyle: To serve.

The Court: I understand.

Mr. Lyle: Yes, sir.

Mr. Ansell: Ah—Your Honor, I've been over this before a couple of times and I think we see that ah—we've got a product of a society here that we—we really don't have anything that we can do anything for, parents gone, drug up you might say. He's not a violent person as the report will show and it's a nickel and dime sort of situation which ah—George, I think understands more now than he did when I first came in contact with him a year and a half or so ago. I think that ah—what Mr. Lyle said has merit. I think these Police Officers have—have some glimmer of hope left for him, I know I do after his talk and after what he said ah—the last time we were here in court. I believe there was another Judge at that time and I think he may well want to have something to say today prior to your passing sentence.

page 89 } The Court: Mr. Jones?

Mr. Ansell: Mr. Jones, yes, sir. And I feel that ah—

The Court: Did I understand the Commonwealth to say two years on each of the charges which would run concurrently?

Mr. Lyle: Yes, sir.

Mr. Ansell: And I would just call the Court's attention that—that ah—he does have ah—time hanging over his head right now from one of these charges—not one of these charges but a previous break-in from, I think, it was one of these same places Vic's Pizzaria or something. So ah—he does have some time on him now and I would

The Court: *Wont* he get some recidivist time on this condition?

Mr. Ansell: He will, Judge, he will and that's—I would ask the Court to take that into consideration also and I would join in the plea that this time be made to run concurrently.

The Court: Well, I'm inclined to follow the Commonwealth's Attorney recommendations. Do you want, Mr. Jones?

page 90

Mr. Ansell: Do you want to make a statement?

The Court: Well, I'm asking him if he wants to make a statement.

Mr. Ansell: He has indicated that he does, Judge.

The Court: All right, sir. Mr. Jones, stand up.

(Whereupon, the defendant stood and faced the Court.)

The Court: The Court is about to pass punishment upon you, now, and it has considered the report and taken into consideration the report of the Probation Officer, and I read the report and the Court has elected to try you as an adult instead of a juvenile. Now, I'm about to pronounce sentence, do you have anything you want to say to the Court now, before sentence is pronounced?

The Accused: Yes, sir, I—I'd like to say one thing. Erah, I would appreciate it very much about my time here running to concurrently and everything and now that I've grown up, you know, erah, reachin' into manhood, bein' a man, and all, my understandin' have gained quite much, you know, since I've been a juvenile, erah, there's a girl in my life that stays in Portsmouth and I like 'er very much and ah—in fact I'm sure she likes me too, and erah I wrote her and I told her 'dat I—I want to marry her when I come out and I was plannin' on writing her mother. I have already written her mother and erah her mother agrees so far and erah I'd just like to ah say about this five years I already got, you know, if I could just only to get five years, you know, and they could run concurrent I could come out and get married, you know, and I would appreciate it very

page 91

much. I will try to live my life straight erah, I been readin' the Bible ever since I been in jail and I'm still readin' it and I'm takin' up Bible lessons in the penitentiary sendin' off cards and things, you know, really will try to live my life straight now that I have a understanding, really, when I have gotten out.

The Court: I didn't understand that the two year sentence on each charge was to run concurrently with any other charge.

Mr. Lyle: That wasn't the Commonwealth's thought on it, Judge.

The Court: No. Well, the Court appreciates what you have said to it, but you've got to do—now is the time to correct you if we can. We are not going to be too hard on you, but in accordance with the Commonwealth's Attorney's page 92 } recommendation on your plea of guilty, I'm going to sentence you to the penitentiary—confinement in the penitentiary for two years upon each of the burglary indictments and two years on the forgery and two years on the uttering, which sentences are to run concurrently.

Now, you go up there and you do what they tell you to do, you abide by the rules and regulations of the Parole and Probation Office and if you make a good prisoner the Court is advised that after you serve one-fourth of your term you become eligible for parole. That doesn't mean that you are going to get parole but you become eligible and then you begin to apply for parole. So take your seat.

(Whereupon, the defendant took his seat.)

The Court: All right, gentlemen.

Court's adjourned. Nothing else to come before the court this morning?

page 93 } PROCEEDING

February 20, 1968

The Court: Gentlemen, are you ready in the matter of the Commonwealth against George Lee Jones? Mr. Ansell, are you ready?

Mr. Ansell: Ah—yes, sir, Judge, ah—subject to a preliminary statement by

The Court: All right.

Mr. Ansell: defense counsel.

Mr. Lyle: Ah—this was ah—

Mr. Ansell: January 23rd.

Mr. Lyle: That's right.

The Court: And then it was continued from that day until today.

Mr. Ansell: Your Honor, that's not true. Ah—on

The Court: Oh, it's not?

Mr. Ansell: On that date, the Court found him guilty and sentenced him to two years on each count of—on each indictment, after which time an Order was entered which vacated and set aside the judgment of the court.

The Court: Within the time allowed?

page 94 } Mr. Ansell: It was within twenty-one days after the ah—after the original trial, yes, sir. Now, before we begin here today, I think Mr. Lyle knows and the Court may know that I am going to offer a plea of double jeopardy here before we begin. It is my contention that this —the court at an earlier date upon the same charges and the same facts took jurisdiction over this case and the man was in jeopardy and that a finding was had and that in order to continue with the matter at this time that the man would be subject—subjecting himself to double jeopardy. I realize that ah—it is essential for me to put this plea in the form of writing ah—I intended to do so, although I was in bed I'm afraid from Saturday through yesterday. I do not have it at this time, I spoke to Mr. Lyle I can have it ready by the end of the day if the Court would so permit me to do so.

The Court: I—we see no objection to it, no objection by the Commonwealth is there?

Mr. Lyle: No, sir.

The Court: You put it in writing—you put it in writing.

Mr. Ansell: Well, I will—I will have that ready,

page 95 } Your Honor.

The Court: I thought maybe there was an Order on

Mr. Lyle: There's an Order, Judge, in the file on this thing.

The Court: All right. I think there's an Order and I think I entered it.

Mr. Lyle: Yes, sir, you entered an Order.

The Court: Have you got a copy of it?

Mr. Lyle: Yes, sir, here it is. Mr. Ansell

The Court: Any *e*

Mr. Lyle: blanked out part of it but here is the

The Court: And you marked it seen and objected to, I guess.

Mr. Lyle: That's right, he

Mr. Ansell: Yes, sir, Your Honor.

Mr. Lyle: struck out the fact that counsel for the defendant joined in it, but otherwise

The Court: Well, we don't have that in the file. We'll have to find it. Gentlemen, what's the date of the entry of that? (The Clerk spoke to the Court but it could not be heard.) He's going out and see if he can find it.

Mr. Lyle: All right.

page 96 } Mr. Ansell: I would like to have one more say before he begins putting on the evidence, Your Honor.

The Court: All right, now, are you

Mr. Ansell: If he's—if he's ready to put on the evidence I would like to have one more word with the Court.

Mr. Lyle: I'm ready to put on the evidence.

Mr. Ansell: All right. Your Honor, ah—in support of the motion or the plea that I have made ah—what the Commonwealth is trying to do here is mer—is merely to put in additional evidence which we feel is needed to sustain a conviction in this particular case and it amounts to ah—or at least they would like it to amount to an continuance from the other ah—trial on the 23rd, to put in some more evidence today and—and have a finding. Now, I say that this cannot be done. Now, under the ah—this is in *Michie,* in *Article* 4, *Acquit or Convict,* it says, "One of the most common instances of former jeopardy arises where the trial has begun and the prosecuting officer moves for a mistrial because of the absence of material witnesses. This is fatal and the accused has the right to move for a directed verdict at that time." Now, it's

page 97 } my position here that this man was tried on January the 23rd, that if all the witnesses were not present that were needed at that time then he could have moved for a continuance or whatever we needed to do, but once—once a person has been placed on trial with a valid indictment before a court of competent jurisdiction, which this court certainly is, has been arraigned and pleaded and the court has taken to hearing evidence in the matter he is—he is put in jeopardy and it is my position here that—that the court took this over, that it cannot at—now, at a later date come back and find here further evidence in order to obtain a conviction and I would further like the Court to know that this man came here before, I think the Court can remember the testimony of Detective Zello and whathaveyou, that how cooperative he was, his family situation and what-

haveyou, he did come at that time and enter a plea of guilty, and that this is none the doing of the defendant in this case, it is merely something that has come up with regard to technicalities and procedures that his lawyer is asserting to the Court and I strongly believe that this is the situation. I would—I would certainly not be raising it otherwise, but ah—I feel that we cannot go on at this time, that it amounts to the same thing as trying to put the trial off to a later
page 98 } date to get material witnesses there and once the man is in jeopardy cannot be put in jeopardy again, so says the Virginia Constitution and I humbly move at this time that the matter be dismissed.

Mr. Lyle: If Your Honor please, if I may say so briefly in response to Mr. Ansell on his motion for dismissal. I believe the authority referred to in the text to which he refers involves cases where the case was finally disposed of, a final judgment was entered, twenty-one days expired, the case was dead except for appeal purposes. And I know of no authority in this Commonwealth that the trial has to take place within the same four walls on consecutive days and that the court can't continue the case from time to time in its discretion. I think the court could have granted a continuance if you want to call it continuance, we call it a—I believe that the final order or the order which you entered says that it is—the order which you previously entered was rendered null and void for the purpose of the Court's hearing further evidence in the case, and I think that's the purpose we are here for today.

The Court: Here for today, he doesn't have to be re-arraigned.

page 99 } Mr. Lyle: No, sir, I think the Court's already heard up to about seventy-five percent of the evidence in the case. We have the victims here today to testify further as to the

The Court: Different—different places that he broke into?

Mr. Lyle: Yes, sir.

Mr. Ansell: Your Honor, if I might say one more thing, this

The Court: Let you say all you want.

Mr. Ansell: This order states that the judgments of conviction are set aside and vacated, and it is my feeling that if these judgments are vacated then we are certainly in no position to come here today and pick up midway through something that happened on January the 23rd. It is my feeling that either ah—either the whole thing ought to be dismissed or the whole thing ought to start again and not that I

want to sit here and go through everything again, Your Honor, but the order of this court states that it was vacated and set aside and I personally cannot see how we can say, "Well, the Commonwealth wants to start here because this is where the technical problem arose so we'll carry
page 100 } it on from this—from this point." Ah—

Mr. Lyle: Judge, I don't object to going through all the evidence again, it's just ah—the Court didn't provide that all the evidence be *striken* from the record, it just provided that its previous order be rendered null and void for the purpose of hearing *futher* evidence in addition to what we've already heard. Now, if the Court feels like we ought to put on

The Court: No, I think we are to hear further evidence.

Mr. Ansell: I—I would just note my exception to

The Court: Hear—hear further evidence, because you know you can't re-a—you can't arraign him twice.

Mr. Lyle: Judge, I want the record to show that Detective Zello was here

Mr. Ansell: Well, this—this is exactly what I'm getting at,

The Court: I know, and

Mr. Ansell: Your Honor.

The Court: I'll hear further evidence, now, and ah—

Mr. Ansell: Well, note my exception to further

The Court: Your exception will be noted to all
page 101 } the rulings of the Court.

Mr. Lyle: And let the record show, if Your Honor please, that Detective Zello is present and available to testify as to what he already testified to on our first trial day in this case.

The Court: All right. You want to supplement the evidence that you had heretofore?

Mr. Lyle: Yes, sir.

The Court: All right, go ahead.

Mr. Ansell: Well, I—I will agree that he might be subject to call but I can't agree that he is present.

Mr. Lyle: Well, he is right behind you.

Mr. Ansell: Oh, he came back, I'm sorry, Judge, I saw him leave before.

The Court: Then we can stipulate

Mr. Ansell: I will stipulate he is here.

Mr. Lyle: Roy Welch. I don't believe, excuse me, I don't believe they have been sworn in this case.

The Court: No, he has not.

Mr. Lyle: Let's swear them all.

Roy O. Welch

The Clerk: All witnesses who will testify in this case please stand and be sworn, all witnesses, stand and
page 102 } raise your right hand.

(Whereupon, all witnesses were then duly sworn according to law by the Clerk.)

The Court: All right, I'll give you your file back now, Mr. Lyle, we've found the order.
Mr. Lyle: All right, sir. All right, thank you.

(Whereupon, Mr. Roy O. Welch who was duly sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

DIRECT EXAMINATION

By Mr. Lyle:
Q. State your name, please, sir?
A. Roy O. Welch.
Q. Where do you live, Mr. Welch?
A. Beg your pardon?
Q. Where do you live, sir? Where do you live?
A. 4944 Whitman Lane, Virginia Beach.
Q. And what is your business?
A. Manager of the Jamaica Inn Restaurant. At the present
Q. Were you—
page 103 } A. time I was manager.
Q. Sir?
A. At that present time I was the manager of the Inn.
Q. In August of 1967 were you the manager of the Jamaica Inn?
A. Yes, sir.
Q. And where is that located?
A. 1848 Diamond Springs Road, Virginia Beach.
Q. All right, sir. Did it come to your attention that on August 24th of last year anything unusual happening in your place of business?
A. Yes, sir. Ah—the ah— back door was busted in and a large juke box was busted into and money taken.
Q. All right, when did this come to your attention?

A. Well, it happened, I believe I

Q. That's all right, have you

A. I got a telephone call from the police and when I went down why the police were there and

Q. All right, what time of night was it?

A. Um

Q. Approximately.

page 104 } A. Well, the time I got the telephone call, I don't recall just exactly the time, I believe it was rather late in the morning. The place was broken into between one-fifteen a. m. and six—6:05 a. m. in the morning.

Q. All right, sir. Did you view the door yourself?

A. Yes, sir, I did.

Q. Your witness.

Mr. Ansell: No questions.

Mr. Lyle: All right, Mr. Welch, you can go, I appreciate your coming.

A. Thank you.

(Whereupon, Mr. Roy O. Welch was dismissed from the witness stand.)

Mr. Lyle: Mrs. Meredith.

(Whereupon, Mrs. Rayzell Meredith who had been previously sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

DIRECT EXAMINATION

By Mr. Lyle:

Q. Will you state your name, please, ma'am?

page 105 } A. Rayzell Meredith.

Q. And where do you live?

A. 4544 Delmar Drive, Virginia Beach, Virginia.

Q. What is your occupation, Mrs. Meredith?

A. I'm secretary at the Bettie F. Williams Elementary School, Virginia Beach, Virginia.

Q. All right, were you so employed in August of last year?

A. Yes, I was.

Q. Did it come to your attention on August—that on Aug-

ust the 11th of last year that anything unusual happened at the Bettie Williams School?

A. Yes, as I arrived that morning the custodian told me that someone had entered the building that night and I went to look at the damage at the Coke Machine and the messed up office and the desk.

Q. Did you see any indications that the place had been broken into?

A. Yes, in the window in the cafeteria had been.

Q. Was it opened or broken?

A. Broken.

Q. I see. Your witness.

page 106 } Mr. Ansell: No questions.

Mr. Lyle: You can go, Mrs. Meredith, thank you.

(Whereupon, Mrs. Rayzell Meredith was excused from the witness stand.)

Mr. Lyle: George Ritter.

(Whereupon, Mr. George H. Ritter who had previously been duly sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

DIRECT EXAMINATION

By Mr. Lyle:

Q. Would you state your name, please sir?

A. George H. Ritter.

Q. And where do you live?

A. 429 Sharp Street, Virginia Beach.

Q. And what is your business?

A. Owner of Thoroughgood Atlantic.

Q. Thoroughgood Atlantic Service Station?

A. Yes, sir.

Q. Is that situate in the city of Virginia Beach?

A. Yes, sir.

page 107 } Q. And were you so employed on July 30th of last year?

A. Yes, I was.

Q. Did it come to your knowledge that anything unusual

happened at your place of business on that day or during that night?

A. Yes, that morning when I—when I went in.

Q. All right, what did you find when you went in that morning?

A. Like I say, I didn't open it but I did go in later.

Q. All right. What—what

A. And a side window of the building had been—had been kicked in or either, you know, broken and entry gained through there.

Q. All right, was anything taken from *you* premises during that night?

A. Well, the cigarette machine was—was tore open.

Q. Un huh, was any money missing?

A. You mean from the cigarette machine?

Q. Un huh.

page 108 } A. As far as I—I mean I don't know, I have no—

Q. You don't know.

A. No.

Q. All right. Was anything else missing?

A. Couple pair of sun-glasses, small items.

Q. O. K. Your witness.

CROSS EXAMINATION

By Mr. Ansell:

Q. When was the date of this breaking, Mr. Ritter?

A. I don't remember the date, I really don't.

Q. That's all.

Mr. Lyle: You can stand down.

(Whereupon, Mr. George H. Ritter was excused from the witness stand.)

Mr. Lyle: Jesse Washington.

(Whereupon, Mr. Jesse Washington who had been previously duly sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

Jesse Washington

page 109 } DIRECT EXAMINATION

By Mr. Lyle:

Q. Would you state your name, please sir?

A. Jesse Washington.

Q. Where do you live?

A. 728 Sandpit Road, Virginia Beach.

Q. And where do you work?

A. Bayside Elementary School.

Q. How long have you worked there?

A. A year and six months.

Q. And I believe you were employed there during last summer, is that right?

A. Yes, sir.

Q. Is the Bayside Elementary School in the city of Virginia Beach?

A. Yes, sir.

Q. What are your duties there?

A. I am the custodian of the school.

Q. Did it come to your attention that anything unusual had happened on July 26th, of last year?

A. Yes, sir, that morning I got to work, as soon as I got there, the door was broke open and everything
page 110 } and then I started checking the whole building and I found out someone had come through the door. So in our teachers' room—

Q. Had it bro—had it broken the outside door?

A. Broken the glass and then put their hand in and come through the door and then I came to the Coca Cola machine and 'dat was all smashed in.

Q. What time did you get to work, finally?

A. I be's to work every morning at 5:15.

Q. All

A. Have milk and bread and meat and all that come in and I have to be there to check it in.

Q. I see, was it dark at that time?

A. Yes, sir.

Q. And when you left the night before had conditions been all right?

A. I always do, sir, I don't leave without it. (Laughing) I don't want to go to jail.

Q. All right, sir. Your witness.

Samuel V. Snyder

CROSS EXAMINATION

By Mr. Ansell:

Q. What was the date of that breaking, Mr.
page 111 } Washington?

A. I don't have the date of it, sir.

Q. All right, that's all.

RE-DIRECT EXAMINATION

By Mr. Lyle:

Q. Do you remember it was July?

A. Right.

Q. All right. You can stand do—you can go, too, —ah—

A. All right, sir, thank you.

Q. Thank you, sir.

(Whereupon, Mr. Jesse Washington was excused from the witness stand.)

Mr. Lyle: Samuel V. Snyder.

(Whereupon, Mr. Samuel V. Snyder who had been previously sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

DIRECT EXAMINATION

By Mr. Lyle:

Q. Will you state your name, please sir?
page 112 } A. Samuel V. Snyder.

Q. And where do you live?

A. 908 Club House Road, Apartment No. 5, Virginia Beach.

Q. What's your business?

A. Vic's Restaurant and Pizzeria, I own it.

Q. Did you own and operate Vic's Pizzeria on August 15th, of

A. Yes, I did.

Q. this past year?

A. Yes, sir.

Q. Is that situated in the city of Virginia Beach?

A. Robbin's Corner, Bayside, Virginia Beach.

Mrs. Florence Chandler

Q. Did it come to your attention on August 15th, 1967, that anything unusual happened in your place of business?
A. Yes, sir.
Q. When did it first come to your attention?
A. When I opened up in the morning, about 11 o'clock.
Q. And what did you find when you opened up?
page 113 } A. I found the rear window was smashed in and that's where they gained entrance, went in the kitchen, had to break down the door to get into the main room.
Q. All right, was anything missing?
A. Well, besides about, I don't remember exact how much money was in the register in silver, they broke into the juke box and the pool table. Then they took a lot o' knives and tools and a grinder and an air rifle and a radio and little pails we used to fill with ice to put in the coke machine, quite a bit of utensils were taken.
Q. All right. Your witness.

CROSS EXAMINATION

By Mr. Ansell:
Q. What was the date of this breaking, Mr. Snyder?
A. 15th of August.
Q. Yes, sir. That's all.

Mr. Lyle: You can go, Mr. Snyder, thank you.

A. Thank you, sir.

(Whereupon, Mr. Samuel V. Snyder was excused from the witness stand.)

Mr. Lyle: Mrs. Florence Chandler.

page 114 } (Whereupon, Mrs. Florence Chandler who had been previously duly sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

DIRECT EXAMINATION

By Mr. Lyle:
Q. Would you state your name, please ma'am?
A. Florence Chandler.

George T. Lamb

Q. And where do you live?
A. 3960 Richardson Road, Virginia Beach.
Q. And what is your profession?
A. Elementary School Principal for the city of Virginia Beach.
Q. Where were you employed on ah—during last summer?
A. Shelton Park Elementary School.
Q. Is that in Virginia Beach?
A. Yes.
Q. Were you Principal of Shelton Park Elementary School on August 14th, 1967?
A. Yes, I was.
Q. Did it come to your attention that on that
page 115 } day or that night anything unusual happened in your school?
A. Yes, sir, a window in the cafeteria was broken and the school was entered.
Q. Did you see it, yourself? Did you see the broken window, yourself?
A. Yes, I did.
Q. Was anything stolen or taken from the school?
A. Yes, some stamps and a small portable radio and the Pepsi Cola machine was broken into and I understand change was taken from it.
Q. Your witness.

CROSS EXAMINATION

By Mr. Ansell:
Q. What was the date of that, Mrs. Chandler?
A. August the 14th.
Q. All right, that's all.

Mr. Lyle: You can go now, Mrs. Chandler, thank you.

(Whereupon, Mrs. Florence Chandler was excused from the witness stand.)

Mr. Lyle: George T. Lamb.

page 116 } (Whereupon, Mr. George T. Lamb who had been previously duly sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

George T. Lamb

DIRECT EXAMINATION

By Mr. Lyle:

Q. Will you state your name, please, sir?

A. George T. Lamb.

Q. And where do you live?

A. 732 Oliveri Lane.

Q. What's your business?

A. I operate the Lake Wright Texaco.

Q. Did you operate Lake Wright Texaco Service Station on August 2nd, 1967?

A. Yes, sir.

Q. Is that in the city of Virginia Beach?

A. Yes, sir.

Q. Did it come to your knowledge that anything unusual happened at your place of business on that day or during that night?

A. Yes, sir.

page 117 } Q. All right, just tell us when you first were alerted to it and what you found.

A. It was about, I'd say between 2:30 and 3 in the morning whenever the Police Department called me and said I had a break-in.

Q. Did you go down to your place of business?

A. Yes, sir.

Q. What did you find?

A. I found a window broke out on the side of the building and the cigarette machine had been opened.

Q. Did you see this yourself?

A. Yes, sir.

Q. Your witness.

CROSS EXAMINATION

By Mr. Ansell:

Q. Was any money taken, Mr. Lamb?

A. Yes, sir.

Q. How much?

A. It was three dollars taken from the cash register and I don't know how much was taken from the cigarette machine and the machine is outside.

page 118 } Q. Undetermined amount?

A. Yes, sir.

Detective Michael Zello

Q. And what—what day did this happen on?
A. August the 2nd.
Q. All right, thank you, sir.

(Whereupon, Mr. George T. Lamb was excused from the witness stand.)

Mr. Lyle: Detective Zello.

(Whereupon, Detective Michael Zello who had previously been duly sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

The Court: May those witnesses who have testified be excused, can they go?
Mr. Lyle: Yes, sir, I think everybody else connected can be excused if they wish.

DIRECT EXAMINATION

By Mr. Lyle:
Q. Would you state your name, please, sir?
A. Detective Michael Zello, Virginia Beach Police Department.

page 119 } Q. Detective Zello, I believe you have already testified in this case on January 23rd, 1968, have you not?

A. Yes, sir.
Q. To refresh you, if I may lead you slightly, this case involves ten indictments against George Lee Jones for statutory burglary of the following places of business: the Jamaica Inn, the Bettie Williams School, Thoroughgood Atlantic Service Station, Bayside Elementary School, Vic's Pizzeria, Shelton Park Elementary School, Lake Wright Texaco Service Station and three counts of burglary of Lake Wright Esso Station. Is that correct?
A. Yes, sir.
Q. Did you investigate each one of those counts or each one of those *indictmenst* from the standpoint of your duties as a detective?
A. Yes, sir.
Q. And have you previously testified with regard to any statement which the defendant here might have made to you?

Detective Michael Zello

A. What—what do you mean, sir?

Q. Have you previously testified as to any confession which you have obtained from George Lee Jones?

A. Yes, sir, yes, sir.

page 120 } Q. All right, previous to obtaining this confession, I would ask you briefly to reiterate what advice if any you gave him?

A. I warned him of his rights.

Q. What rights?

A. That he had the—I told him that he had the right to remain silent, that anything that you say can be used against you in a court of law, you have the right to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford to hire a lawyer one—one will be appointed to represent you before any questioning if you wish one. And he said he understood all these rights.

Q. All right, sir, I believe he signed one of your waiver forms which is

A. Yes, sir, I believe it is entered as evidence.

Q. filed as an exhibit, is that right?

A. Yes, sir.

Q. All right, sir. All right, subsequent to your giving him that advice did he give you a statement in regard to these ten charges?

A. Subsequent to it? No, sir.

page 121 } Q. Excuse me, subsequent to your telling him of his rights, did he make a statement, did he indicate he wanted to make a statement?

A. Yes, sir.

Q. And did he make a statement?

A. Yes, sir.

Q. Without going into great detail, Detective Zello, because you have already testified in great detail, I ask you, did the defendant acknowledge criminal responsibility for these ten statutory burglary charges?

A. Yes, as I specifically stated before, he did, sir.

Q. All right. Your witness.

Mr. Ansell: No questions at this time.

Mr. Lyle: You can stand down, Detective Zello.

(Whereupon, Detective Michael Zello was excused from the witness stand.)

Harold T. Mahler

Mr. Lyle: Mr. Mahler. If Your Honor please, this next witness' testimony will relate to the other indictment pending against George Lee Jones for forgery and uttering.

The Court: He's already been—he's already been found guilty of it?

page 122 } Mr. Lyle: Yes, sir. This is the eleventh and twelfth indictments in the case.

(Whereupon, Mr. Harold T. Mahler who had been previously duly sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

DIRECT EXAMINATION

By Mr. Lyle:

Q. Would you state your name, please, sir?

A. Harold T. Mahler.

Q. And what is your business?

A. I'm with the First and Merchants National Bank.

Q. What capacity do you serve in?

A. Assistant Cashier, Manager of the Bayside Branch which is at Robbin's Corner.

Q. Is that in Virginia Beach?

A. Yes, sir.

Q. How long have you been so employed?

A. I've been at that branch for the past six years.

Q. In your capacity as Assistant Cashier do you have access to and custody of the records of the vari-

page 123 } ous accounts which are held by your bank there?

A. Yes, sir.

Q. If I may have one moment, Judge.

The Court: All right, sir.

By Mr. Lyle:

Q. Pursuant to my request, Mr. Mahler, have you examined your records as to whether or not your bank maintains an account in the name of Thomas Benjamin Howell?

A. Yes, sir.

Q. Have you examined the signature card for this account?

A. Yes, sir, I have the signature card.

Q. Do you have the original here in court?

A. Yes, sir.

Harold T. Mahler

Q. And does it contain a signature which was given by the man who at the time the account was opened purported to be Thomas Benjamin Howell?

A. Yes, sir.

Q. Is that account presently active?

A. No, sir.

Q. Let me have it please. Your Honor please, I'd like to introduce this as Commonwealth's Exhibit No. 2,
page 124 } well, actually it would be 1, I guess, Your Honor.

(Whereupon, referenced signature card was marked Commonwealth's Exhibit No. 1, and received into evidence by the Court.)

By Mr. Lyle:

Q. Is it within your knowledge whether this check was presented to your bank for payment?

A. As far as I know it has been, yes, sir.

Q. All right, does it appear to have—that *doesn*—it doesn't appear on there whether it was paid or what action was taken on it, does it?

A. Not on this check, no, sir.

Q. All right, sir. Your witness.

CROSS EXAMINATION

By Mr. Ansell:

Q. Mr. Mahler, you wouldn't—your bank wouldn't cash this in the condition it's in now, would it?
page 125 } A. More than likely not, no, sir.

Q. And you say, "As far as you know it was," you don't really know whether it was or not, do you?

A. Well, may I look at it again, please. I was trying to find our stamp on the back and it's been stamped so many times. I'm assuming, I don't see our stamp on the back, I'm assuming it was sent back for insufficient funds at the time it was presented, which means that we did not honor the check, it was sent back to the last endorser which in this case would be BeLo Enterprises.

Q. BeLo Market?

A. Yes, sir.

Q. Now, if you did that you would probably have one of your little white slips

A. Yes, sir.
Q. on here with a ah—
A. With the reasson for being sent back.
Q. In that event you would not stamp it anyway?
A. No, sir.
Q. All right, that's all. That's all I have.

Mr. Lyle: You can stand down, Mr. Mahler, you—you can be excused as far as the Commonwealth is con-
page 126 } cerned. Thank you.

(Whereupon, Mr. Harold T. Mahler was excused from the witness stand.)

Mr. Lyle: Detective Robbins.

(Whereupon, Detective R. L. Robbins who had been previously duly sworn, was called to the witness stand on behalf of the Commonwealth, was examined and testified as follows.)

DIRECT EXAMINATION

By Mr. Lyle:
Q. Would you state your name, please, sir?
A. Detective R. L. Robbins, Virginia Beach Police Department.
Q. How long have you been so employed?
A. Two and one-half years.
Q. Did it come within the purview of your duties to investigate certain charges of forgery and uttering which are now pending against George Lee Jones?
A. Yes, sir.
Q. What did you—did you have a conversation with Jones about the offense of forgery and uttering?
A. Yes, sir, I did.
page 127 } Q. All right, when did you have that conversation, if you remember?
A. This conversation was on October the 6th, at 2:08 p.m. at the Police Headquarters.
Q. Prior to having this conversation with him did you give him any advice as to what rights he may or may not have had?
A. Yes, sir, I advised him of his rights in the presence of Detective Taylor.
Q. All right, what rights did you advise him he had?

Detective R. L. Robbins

A. He had the absolute right to remain silent and make no statement, any statement you make can be used as evidence either for or against you in a court of law, you have the right to consult with an attorney or to have an attorney present prior to making a statement now or any other statement which you may make. And if you are without funds to employ an attorney the court will appoint one for you.

Q. Did he appear to understand the rights you explained to him?

A. Yes, sir.

page 128 } Q. Did he give you any indication that he didn't understand?

A. No, sir, he ah—it was read to him and then shown to him.

Q. Did he sign the form?

A. Yes, he did.

Q. Do you have it with you?

A. It's already

Q. Introduced as an exhibit?

A. introduced as an exhibit.

Q. O. K. Subsequent to this did he indicate that he did want to make a statement?

A. He, when questioned in regards to this after advising him of his rights, the only statement he made was that he denied ever forging or uttering a check. He admitted that he had the checks in his possession but denied that he had ever forged the name of—on—on that check.

Q. All right, did you have any subsequent conversation with him?

A. After that on the 8th of October, I saw George at the City Jail again and took him to the Detective Bureau and at this time in the presence of Detective Zello he was

page 129 } again advised of his rights.

Q. Same rights that you have referred to?

A. Yes, sir.

Q. What was your reason for going back to him, sir?

A. I felt pretty sure that he was withholding.

Q. Did you have other information from other sources at that point?

A. Nothing from what I had at the previous time.

Q. I see. At that time during the second interview did he appear to understand the rights which you had explained to him?

A. Yes, sir.

Q. And did he say at that point whether or not he voluntarily wanted to make a statement?

A. Yes, he did.

Q. What did he say, he did or didn't?

A. He did.

Q. Voluntarily?

A. Yes, sir.

Q. Did he give you any indication that the statement was not voluntary?

page 130 } A. No, sir.

Q. Did he—

A. Said he wanted to talk about it, get it off his shoulders.

Q. All right, sir, with that preface then tell us what he told you.

A. He stated, this is a signed statement he gave us. "I was helping my aunt, Mrs. Cora Lee Howell, move her from her home at 1136 Pretty Lane."

Q. Is that in his handwriting?

A. No, this is a typed statement of what had taken place. "I dumped the clothes from a dresser drawer into a sheet and carried them to another house that she had. When I returned to 1136 Pretty Lane I noticed four checks on the ground on the side of the trailer. I found the checks on or about the 5th day of August, held on to them for a couple of days. I filled out the check dated 8-7-67, and signed the name 'Thomas Benjamin Howell' to the check. I cashed the check at the BeLo store on Northampton Boulevard near Baker Road."

Q. Is that in the city of Virginia Beach?

A. Yes, sir. "I received groc—groceries which

page 130 } amounted to approximately ten ($10.00) dollars and approximately twenty dollars and thirty-six cents ($20.36) in change. I then threw the other checks away on that date."

Q. I show you a check dated August 7, 1967, purportedly on the account of Thomas Benjamin Howell, drawn on the First and Merchants National Bank and I ask you whether this check was in your custody?

A. Yes, sir.

Q. Where did it come from?

A. I received it from the manager of the BeLo store at Northampton Boulevard.

Detective R. L. Robbins

Q. Did you show this check to George during your interview with him?
A. Yes, sir, I did.
Q. What did he say, did he identify the check?
A. He said that was the check that he signed.
Q. The check which he referred to?
A. Yes, sir.

Mr. Lyle: (To Mr. Ansell) You've seen the check, haven't you?
Mr. Ansell: Um hum.
Mr. Lyle: If Your Honor please, I would like
page 131 } to introduce this check as Commonwealth's Exhibit, I believe, 2.
The Court: All right.
Mr. Ansell: Your Honor, I'm going to object to the introduction of the check unless we've got the manager of the BeLo's Supermarket here to testify as to it.
The Court: Note your exception. He can introduce the check.
Mr. Ansell: Well, of course, I've—you will note my exception, please.
The Court: He can—your exception is noted.

(Whereupon, said check was marked Commonwealth's Exhibit No. 2, and received into evidence by the Court.)

By Mr. Lyle:
Q. Did your investigation—did you determine in your investigation whether or not the signature on the check was or was not the true signature of Thomas Benjamin Howell?
A. It's not the true signature. I interviewed him and showed him this check and as a result of the interview with him I received an affidavit from him, notarized affidavit that states that it is not his signature.
page 132 } Q. Is this the affidavit which you received from him?
A. Yes, sir.

Mr. Lyle: If Your Honor please, I recognize this is strictly speaking hearsay evidence. We—our ah—our *subpeona* on Howell was returned not found and I think in view of the guilty plea and other circumstances of the case I'm going to offer it for

Detective R. L. Robbins

Mr. Ansell: Your Honor, in—in—I've been trying to be as agreeable as I can all—all along but in view of the way the case is going, I would feel as though I might best in the interest of my client advise him maybe to change his plea to all of these particular matters. Not—not that anything

Mr. Lyle: We will oppose that, Your Honor.

Mr. Ansell: As I say, I don't feel like I ought to be here right now, ah—

The Court: Well, if that—unless he—no, it can't be introduced unless he—

Mr. Ansell: All right, then I—

The Court: it can't be introduced.

Mr. Ansell: I withdraw.

page 133 } Mr. Lyle: Your witness.

Mr. Ansell: I don't think I've got any questions, thank you.

Mr. Lyle: If Your Honor please, that's the Commonwealth's case.

The Court: And your motion is what is your motion? To reinstate the conviction of January 23rd, and to resentence him?

Mr. Lyle: Yes, sir, my recommendation to the Court is that he be given two years in the penitentiary on each of these twelve counts, ten of statutory burglary, one of forgery and one of uttering, and that these sentences be imposed to run concurrently rather than consecutively.

The Court: How many are there twenty-two?

Mr. Lyle: Twenty-four, it would be twelve, it would be

The Court: Twelve?

Mr. Lyle: twelve counts of two years each, right. That's the Commonwealth's recommendation.

The Court: All right.

Mr. Lyle: I think we've gone into the reasons why.

The Court: Yes.

page 134 } Mr. Ansell: Your Honor, if I may, I—I think even with the additional evidence that was put on here today that certain of these charges against Mr. Jones are not proven. Mr. George Ritter came from the Thoroughgood Atlantic and he said that he could not state the date of breaking. Well, I think that ah—it's incumbent on the Commonwealth to prove that, not that just a break in was accomplished but

The Court: Which one is that, Mr. Ansell, the Jamaica Inn?

Mr. Ansell: Thoroughgood Atlantic.

The Court: Thoroughgood Atlantic? All right.

Mr. Ansell: Further, Mr. Jesse Washington for the Bayside Elementary School also said that he didn't have the date of that particular breaking. I think these are very necessary to the Commonwealth's case. Then finally with the forgery and the uttering, Mr. Harold Mahler has come here today and very honestly testified that he can't say for certain whether that check was ever presented or not. He says as far as he knows it was, but when asked whether he could say whether or not it-for certain it was he could not answer. We don't have anybody here from the BeLo Market to substan-
page 135 } tiate the confession that the Commonwealth is relying on. We—we have absolutely no testimony with regard to a forgery involved. I think if the Court will look at the

The Court: Was he—was he—ah was he convicted of both forgery and uttering?

Mr. Ansell: Forgery and uttering.

The Court: Two on each one?

Mr. Ansell: Yes, sir. And I—and—of course, we are probably getting into a play on words because the Court did run these sentences consecutively—

The Court: That's right.

Mr. Ansell: I mean, pardon me, concurrently.

The Court: Yeah.

Mr. Ansell: However, due to the way the system of jurisprudence goes after they get out—away from our courts and get into their own ah—

The Court: Maybe he'll confess error on two of them. I don't see where it makes a great deal of difference.

Mr. Lyle: On the uttering, certainly on the uttering—what I was wondering, does the Court have in mind?

The Court: Well, the dates. There are two with-
page 136 } out dates.

Mr. Lyle: Well,

The Court: I was thinking three out of twelve might be ah—

Mr. Lyle: I don't—I don't have any—any particular feeling one way or the other, Judge, I think that what Mr. Ansell is contending is that the confession and all the details in the confession have no weight whatsoever and the Court can't consider it, and I think we are being

The Court: Well, I

Mr. Lyle: required to prove beyond a reasonable doubt.

Mr. Ansell: No, I don't say that in the least.

Mr. Lyle: Well, the confession itself contains dates, locations, every detail that you could possibly want.

Mr. Ansell: Well, there's

Mr. Lyle: And here's a man that

The Court: Well, let me—

Mr. Lyle: says that

The Court: let me overrule

Mr. Ansell: as to the date.

page 137 } The Court: I'll tell you, let me overrule the motion, to which action of the Court you except on all of them.

Mr. Lyle: As far as the uttering goes, Judge, I think Mr. Ansell's point is well taken, if I may say so.

The Court: Well, do you want to take off the uttering?

Mr. Lyle: Yes, sir, take it off.

The Court: Knock one, all right.

Mr. Ansell: Well, of course, I say that there's absolutely no

The Court: On the forgery?

Mr. Ansell: —on the forgery either.

The Court: Did he say it wasn't—I thought the last gentleman said it wasn't his signature.

Mr. Lyle: Judge, we have, of course, the confession and he signed it. We have

The Court: All right.

Mr. Lyle: —the physical check itself which we introduced through the detective and we have Mr. Mahler who was brought here for the sole purpose of introducing that signature card. I know that the Court nor me is a

page 138 } handwriting expert, but I think a comparison of those two signatures

The Court: You concede that—that ah—eleven indictments ah—he should be found guilty on eleven and the uttering should be dismissed?

Mr. Lyle: Yes, sir, we've already asked leave to *nolle pros* three counts involving Lake Wright Esso, three statutory burglary counts.

The Court: You haven't yet.

Mr. Lyle: Well, we—we want to ask leave to do that, Your Honor.

The Court: All right, which ones do you want to *nolle pros* now?

Mr. Lyle: Lake—we have no evidence relating to Lake Wright Esso for reasons which I have previously stated,

The Court: All right, Lake Wright Esso and

Mr. Lyle: that we are unable to locate witnesses.

The Court: what is the next one?

Mr. Lyle: Three statutory burglary counts involving Lake Wright Esso, and

The Court: Three of them?

Mr. Lyle: and the uttering charge, which will be the last indictment.

page 139 } The Court: Well, that would be four you want to

Mr. Lyle: Four, in total, yes, sir.

The Court: Well, then he—Mr. Ansell, he's moving to *nolle pros* the three Lake Wright Esso,

Mr. Ansell: No objections.

The Court: and—and one of uttering, which is four. He want's to *nolle pros* it.

Mr. Ansell: All right, well, I can't object up to that point.

The Court: So that leaves—

Mr. Lyle: I think we are error free at this point, Judge.

The Court: And that leaves eight,

Mr. Lyle: That's right, it would leave eight counts of statutory burglary—well, seven counts of statutory burglary and

The Court: And one of forgery.

Mr. Lyle: one of forgery, yes, sir. I think we are

The Court: Seven counts of statutory burglary and one of forgery. Are—are we together, Mr. Ansell? I mean, you don't object to

page 140 } Mr. Ansell: With the exception of my previous exception.

The Court: I understand, well, we'll—the Court is aware of your exception. You don't have any evidence, do you?

Mr. Ansell: No, no evidence, Your Honor.

The Court: All right, Mr. Jones, you have to stand up. In accordance with your plea of guilty and the evidence produced in court, the Court finds you guilty of seven—seven indictments of statutory burglary and one indictment of forgery, and those sentences to confinement in the penitentiary for two years on each of the eight indictments these terms are to run concurrently and you receive credit for any time that you have been in jail. All right, have a seat.

Mr. Ansell: Your Honor, if you would, I've explained to Mr. Jones and maybe if you could help him, when he got to Richmond he got a paper stating what he got before and he just wants to get it through his mind that this is not in addition to what we got on January the 23rd.

The Court: George, you stand up, now. We have helped you

more this time, really, the Commonwealth's At-
page 141 } torney has *nolle prossed* today, what you pleaded
guilty to, but he has *nolle prossed* three cases against Lake Wright and one of—of forgery. So you come back this time better off than you were the last time. We only find you—are resentencing you now to eight different counts, one of uttering—one of forgery and seven of burglary, so that's sixteen years but you are only getting two years. All the others are to run concurrently. Now, if you—I don't mean consecutively, that means one after the other, but while you are pulling the two years on one of these indictments you will be pulling it all on the others. So you go up there and be a good boy and I know you can be one and follow the regulations, do what they tell you to do and you'll come back and be a useful citizen. So you—so this has helped you by coming back. You got off very light due to what Mr. Ansell has told the Court and I believe you can make it. So take your seat.

The Accused: Well, Your Honor please, can I say something?

The Court: Yes.

The Accused: Erah, I was tryin' to talk to the people trying to pull my time in the wall, and if you would,
page 142 } possibly erah you could you know do something
that I could have my time pulling in the wall in a particular trade or something like that.

The Court: No, I think you've got to do that up there. You've got to convince them that that's where you want to be and that you only have twenty-four months and they, now you see if you become a good, I don't believe you have any prior time did he? Recidivist?

Mr. Ansell: Yes, sir.

The Court: He does?

Mr. Ansell: Yes, sir.

The Court: Well, now I can't help with any prior time. You see you got in that trouble yourself. Mr. Ansell didn't do it and I didn't do it, but we are trying to help you on this one so that you *wont* have to pull a great deal of time. So—so you convince the authorities as—as to what you want to do, that you have turned over a new leaf and I think they will go along with you. All right.

Mr. Ansell: Thank you, Your Honor.

* * * * *

page 143 } COMMONWEALTH OF VIRGINIA
CITY OF VIRGINIA BEACH : To-wit:

I, Ruth D. Hampton, a Notary Public in and for the City of Virginia Beach, Commonwealth of Virginia, do hereby certify that the foregoing record was transcribed by me, to the best of my ability, from the Dictaphone electronic belts which were recorded during the time of the trials of the charges in the matter of the COMMONWEALTH OF VIRGINIA v. GEORGE LEE JONES, which was first heard on Tuesday, the 23rd day of January, 1968, and was again heard on Tuesday, the 20th day of February, 1968, by The Honorable Paul W. Ackiss, Judge of the Circuit Court of the City of Virginia Beach, Virginia.

My Commission expires on the 8th day of October, 1968.

GIVEN under my hand this 7th day of June, 1968.

Ruth D. Hampton
Notary Public

page 144 } VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

JUDGE'S CERTIFICATE

I, Paul W. Ackiss, Judge of the Circuit Court of the City of Virginia Beach, Virginia, having heard the foregoing matters in the case of the COMMONWEALTH OF VIRGINIA v. GEORGE LEE JONES on Tuesday, the 23rd day of January, 1968, and on Tuesday, the 20th day of February, 1968, do certify that the foregoing is a true and correct copy and report of all the evidence together with all the motions, objections and exceptions on the part of the respective parties, the action of the Court in respect thereto, and all other incidents and exceptions of the respective parties as are therein set forth.

I do *futher* certify that the Commonwealth's Attorney had reasonable notice, in writing, given by counsel for the accused of the time and place when the foregoing report of the testimony, exceptions and other incidents of the trial would be tendered and presented to the undersigned for signature and authentication, and that the said report was presented

to me on the 20 day of June, 1968, the delay being
page 145 } due to transcribing the record, and consequently
was not presented within less than sixty days, nor signed by me within seventy days after the entry of the final order in said cause.

Said transcript has been prepared upon the request of the accused for use in perfecting his appeal to the Supreme Court of Appeals of Virginia of the judgment heretofore rendered by this court.

GIVEN under my hand this 20 day of June, 1968.

Paul W. Ackiss
JUDGE

page 146 } VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

CLERK'S CERTIFICATE

I, Roland H. West, Deputy Clerk of the Circuit Court of the City of Virginia Beach, Virginia, do hereby certify that the foregoing is a true copy and report of the testimony, exceptions, objections, and other incidents of the hearings of the trials of the case of the COMMONWEALTH OF VIRGINIA v. GEORGE LEE JONES, on Tuesday, the 23rd day of January, 1968, and on Tuesday, the 20th day of February, 1968, in said court, and that the original and one copy thereof duly authenticated by the Judge of said court were lodged and filed with me, as Deputy Clerk of said court on the 20 day of June, 1968.

JOHN V. FENTRESS, Clerk.

By: Roland H. West, D. C.

* * * * *

A Copy—Teste:

Howard G. Turner, Clerk.

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