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IN THE  
**Supreme Court of Virginia**  
AT RICHMOND

RECORD NO. 780201

JOE NATHAN ROBINSON  
*Appellant*

v.

COMMONWEALTH OF VIRGINIA  
*Appellee*

JOINT APPENDIX

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# Search Warrant

Commonwealth of Virginia  
City of Richmond

TO: F. WASHINGTON OR ANY OTHER POLICE OFFICER

WHEREAS an affidavit has been filed pursuant to law and complaint made before me by

F. WASHINGTON that NARCOTICS TO WIT COCAINE IS NOW  
BEING ILLEGALLY POSSESSED STORED AND DISTRIBUTED AT 5755 WESTOVER HILLS VILLAGE. THIS  
INFORMATION IS GIVEN TO THE ABOVE POLICE OFFICER BY A RELIABLE INFORMER.

and I being satisfied from the affidavit filed with me that there is reasonable and probable cause that  
there is now being concealed certain property, namely COCAINE

which IS BEING ILLEGALLY POSSESSED STORED AND DISTRIBUTED

You are hereby commanded and authorized, in the name of the Commonwealth of  
Virginia, to forthwith enter in the day or nighttime the said PREMISES  
described as follows:

5755 WESTOVER HILLS VILLAGE, RICHMOND VIRGINIA

and there forthwith diligently search for the said COCAINE

and bring the same and the person or persons  
in whose possession the same are found, before the City of Richmond General District Court  
\* MANCHESTER Division to be disposed of or dealt with according to law.

And you are hereby further required to make your return of this warrant to the aforesaid  
court of said City, showing all things done thereunder, with a particular statement of the things seized  
and the name of the person in whose possession they were found, if any, and if no person be found in

possession of said article, your return shall so state, and you shall post a copy of this warrant on the door  
of the building or other place where said COCAINE  
is found, and if there be no such door, then in any conspicuous place upon the premises.

Given under my hand and seal, this 25 day of AUGUST 1976 at 9:00 PM

at \_\_\_\_\_

*M. C. Young*  
Magistrate

\* insert "Criminal" or "Manchester"

FILED AUG 30 1976 SOUTH SIDE

TESTE: IVAR R. PURDY, Clerk

By *Robert J. Jasso*

# Search Warrant

The Commonwealth of Virginia

vs.

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RETURN

This search warrant was executed the  
25 day of August,  
19 76, and the following articles were  
found:

- A. Two grams of Cocaine
- B.  $\frac{1}{4}$  spoon of Heroin
- C. Three-fourth pound of marihuana
- D. Two hand rolled cigarettes
- E. Amphetamine
- F. Prescription drug
- G. Two scales
- H. Large amount of brown envelopes

The said articles were in possession of  
Jonathan Robinson

I certify the above to be true

D. F. Washington  
Officer

BP-166

DATE August 26, 1976

CASE OF Jonathan Robinson

LIST OF PROPERTY SEIZED

(Section 19.2-57 Code of Virginia, as Amended)

ITEM NO. DESCRIPTION OF PROPERTY

- A. Two grams Cocaine ( found in the refrigerator in vegetable bin)
- B. 3/4 spoon of Heroin ( found in the refrigerator in vegetable bin)
- C. Three-fourth pound of marihuana (found under sink)
- D. Two hand rolled cigarettes (found in a hat sweat band on top broom closet)
- E. Amphetamine ( found in refrigerator in vegetable bin)
- F. Prescription drug ( found in refrigerator in vegetable bin)
- G. Two scales
- H. Large amount of small brown envelopes ( found in closet at top of stairs)

(Use other side for additional listing)

I, Franklin Washington, certify that the above property

was seized after execution of a search warrant at 5755 Westover Village Dr. on (location)

August 25, 1976 (date)

Det. F. Washington Title

Subscribed and sworn before me,

G. Williams, Notary

Public in and for the (County) (City) of Richmond, this 26th

day of Aug. 1976.

G. Williams NOTARY PUBLIC

My commission expires

# Affidavit For Search Warrant

Commonwealth of Virginia,  
City of Richmond, to-wit:

Before me, M. C. Lowry III, a Magistrate of the

City aforesaid, this day appeared Detective F. Washington and

made oath as follows:

- (1) Substantially the offense in relation to which search is to be made.

Illegal possession of narcotics to wit: cocaine is now being stored and distributed at 5755 Westover Hills Village, Richmond Virginia.

- (2) The material facts constituting probable cause for issuance of the warrant.

On August 25, 1976, I (F. Washington) received information from a very reliable informant that a Black male known as Johnny is now storing and distributing cocaine at 5755 Westover Hills Village, located in the City of Richmond, Virginia south of the James.

My informant stated to me on this date August 25, 1976 that he had been inside of this location (5755 Westover Hills Village) within the past twenty-four hours and had observe this subject Johnny with a large quantity of white powder in same. This subject (Johnny) stated to my informant that he had some dynamite stuff and that it would knock you down quick. He was referring to the white powder substance in a plastic bag. My informant stated that this subject had some of the plastic bags in the bedroom and also he had some on his person.

This informant has been very reliable to me in the past and has given me information that has led to the arrest and conviction of Debra Williams in March 1976 and Charles Lee in March 1976, both for narcotics violation.

The object or thing searched for constitutes evidence of the commission of a crime, storing and distributing of cocaine.

- (3) What is to be searched for under the warrant.

Narcotics to wit: cocaine and all substances commonly used for the purpose of increasing the bulk quantity of the narcotics. Any papers relating to the traffickin of this narcotics and narcotics paraphernalia.

FILED  
TESTER W. R. PARDY, Clerk  
D. C.

(4) The Residence- 5755 Westover Hills Village to be searched.  
Richmond, Va. South of the James

7 Washington  
Affiant

Subscribed and sworn to before me this 25 day of August, 1976.

By **SOUTHSIDE**

M. C. Loney  
Magistrate

VIRGINIA:

76-679F

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND, DIVISION .....II.....

December 13, 1976  
(Date)

City of Richmond, to-wit:

The GRAND JURY charges that:

On or about August 25 1976, in the City of Richmond, .....

..... Joe Nathan Robinson ..... did feloniously and unlawfully have in his possession or have under his control a certain drug, to-wit, marijuana, a controlled drug, with intent to distribute,

against the peace and dignity of the Commonwealth of Virginia.

Va. Code § 18.2-248

F. Washington

I. M. Jackson

K. E. Ellis

J. H. Taylor, III

David J. O'Neil


Witnesses sworn and sent by the court to the Grand Jury to give evidence.

*Lua P. Purdy*

Clerk

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Duval - Cross

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A No, sir.

Q All right, sir.

MR. DRISCOLL: If Your Honor please, I have no further questions.

MR. MORCHOWER: Thank you. You did tell me you had to leave town at 2:00 o'clock, didn't you?

MR. DUVAL: Yes, sir.

MR. MORCHOWER: May he be excused, Judge?

THE COURT: Certainly. Thank you, Mr. Duval.

WITNESS STOOD ASIDE

MR. MORCHOWER: Judge, we have filed a motion to suppress, and I will tell the Court succinctly what the basis of the motion is, and I have the affidavit here and the search warrant, and I want to tender the search warrant and the affidavit to the Court.

MR. DRISCOLL: You just gave him our affidavit.

MR. MORCHOWER: I gave him your affidavit and my search warrant.

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THE COURT: All right.

MR. MORCHOWER: Judge, I want to give the Court some insight as to what my witnesses, or the reason why my witnesses have been called. All right.

My two bases for my motion are these:

The address, if the Court would look, is 5755 Westover Hills Village. That's the address carried on the affidavit and the search warrant. It's a consistent address throughout both documents. The numbers are the same, and it's Westover Hills Village. It's repeated throughout.

I don't know whether Mr. Driscoll would stipulate that or not.

MR. DRISCOLL: I have the search warrant -- excuse me, a copy of it, Judge, and I would be willing to say that, of course, it is carried in there as --

THE COURT: Well, you don't have to. It's obvious.

MR. DRISCOLL: It's plain on its face; yes, sir.

MR. MORCHOWER: All right. The evidence that I will introduce, or that I expect to introduce, will show that Mr. Robinson, on September, or August, I should say -- for some reason, I continue to say

1           September. In August, and on August the 24th and  
2           August the 25th, he was living at -- Your Honor,  
3           the Court may want to make a note of this -- Westover  
4           Village Drive, not Westover Hills Village.

5           THE COURT: Is the number right?

6           MR. MORCHOWER: The number is consistent  
7           with the defendant's numbered address.

8           THE COURT: And he lives at Westover what?

9           MR. MORCHOWER: He lived at 5755 Westover  
10          Village Drive.

11          THE COURT: All right.

12          MR. MORCHOWER: That's my first point. My  
13          second point is through my witnesses, I will show  
14          rather convincingly that Mr. Robinson was not in the  
15          city of Richmond, but hundreds of miles away twenty-  
16          four hours prior to August the 25th. The Court will  
17          note under paragraph two of the affidavit the material  
18          facts constituting probable cause.

19                 It states: "We have a statement from an  
20          informant that within twenty-four hours --" and so  
21          forth. I will show overwhelmingly that Mr. Robinson  
22          was not in the city of Richmond, but over a hundred  
23          miles away through exhibits. Mr. Driscoll did ask  
24          me about exhibits.

25          THE COURT: On what day?

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Robinson - Direct

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1 note that on the search warrant itself, there is a  
2 time specified which is most important, which I  
3 failed to bring out. I think it says 9:00 a.m.,  
4 as I recall.

5 THE COURT: Well, that's the same time it  
6 was executed.

7 MR. MORCHOWER: I understood that that  
8 was the time it was obtained.

9 THE COURT: No. You're right. That's on  
10 the search warrant itself.

11 MR. MORCHOWER: Well, I meant to say search  
12 warrant.

13 THE COURT: Well, it says on the search  
14 warrant itself when it was issued.

15 MR. MORCHOWER: That's most important.  
16 I have got a driver's license.

17 THE COURT: Well, I don't have any questions  
18 about that.

19 MR. MORCHOWER: I've got something else.  
20 No, I think I covered it.

21 THE COURT: How did they know your name  
22 was Jonathan Robinson in this motor lodge you stayed  
23 in?

24 THE DEFENDANT: Because I gave it to the  
25 guy that was at the desk. That's the way he wrote it

Robinson - Direct

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1 down. That is not my writing.

2 THE COURT: He thought your name was  
3 Jonathan, too?

4 THE DEFENDANT: A lot of people write it  
5 down different.

6 THE COURT: You didn't tell him it was  
7 Joe N. Robinson?

8 THE DEFENDANT: No, I didn't.

9 THE COURT: He just came up with Jonathan  
10 also?

11 THE DEFENDANT: Well, it's been done for  
12 a period of years now, and it's got to the point  
13 where I don't question it too much.

14

15 BY MR. MORCHOWER: (Continuing)

16 Q How did you get back from Chicago?

17 A I flew back.

18 Q Was that the weekend after the Monday and  
19 Tuesday?

20 A That was Saturday.

21 Q Okay.

22

23 MR. MORCHOWER: I have got a ticket here,  
24 Judge, for what it's worth.

25 MR. DRISCOLL: I can't read it.

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1 important.

2 THE COURT: I would guess it was August  
3 the 28th.

4 MR. MORCHOWER: That's exactly right. He  
5 has the original. He has a more legible copy with  
6 him.

7 THE COURT: All right. August 28th, 1976.  
8 That's fine. This will be Defendant's Exhibit No. 5.

9 MR. MORCHOWER: My last exhibit would be  
10 the city map.

11 THE COURT: All right. The city map will  
12 be Defendant's Exhibit No. 6.

13 MR. MORCHOWER: Then I rest.

14 THE COURT: All right. What's in the city  
15 map that's of interest?

16 MR. MORCHOWER: May I approach the bench?

17 THE COURT: Yes.

18 MR. MORCHOWER: It has the alphabetical  
19 listing of the streets, Your Honor.

20 THE COURT: I see. Well, there's Westover,  
21 Westover Gardens, Westover Hills Boulevard, and  
22 Westover Village Drive.

23 MR. MORCHOWER: And Westover Drive.

24 THE COURT: And Westover.

25 MR. MORCHOWER: Is there a Westover?

1 THE COURT: Yes. It's Westover. I know  
2 the street. It's Westover Drive, but I'm going to  
3 strike that one out. So, you have got Westover  
4 Village Drive, Westover Hills Boulevard, and Westover  
5 Gardens.

6 MR. MORCHOWER: And Westover Village Drive.

7 THE COURT: Right.

8 MR. MORCHOWER: I rest.

9 THE COURT: All right.

10 MR. MORCHOWER: Are you ready for argument,  
11 Judge?

12 THE COURT: Well, I want to ask him one  
13 other question. Come around.

14  
15 JOE NATHAN ROBINSON, the defendant, recalled  
16 on behalf of the Court, having previously been duly sworn,  
17 testifies as follows:

18 DIRECT EXAMINATION

19 BY THE COURT:

20 Q I believe it's conceded you were renting  
21 this apartment that was raided or searched, were you not?

22 A Yes, sir.

23 Q And when was your lease up?

24 A My lease was up that Friday prior to my  
25 leaving. I actually stayed on the premises -- I asked the

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1 that the misdescription was not fatal, and until I  
2 see that case, I'm not prepared to rule on that one  
3 point.

4 MR. MORCHOWER: Regardless of how the  
5 Court rules, I think Mr. Driscoll ought to be applauded  
6 for his statement in his position, and I don't care  
7 how the Court rules.

8 THE COURT: I'm going to rule on the other  
9 points at this time. I can't accept the defendant's  
10 testimony that a man named Joe Nathan was never  
11 known as Jonathan or Johnny. The testimony is that  
12 he was never known as anything but Robby or Joe,  
13 whereas he accepted a receipt, his own Exhibit No. 2,  
14 from the Howard Johnson's Motor Lodge, at Gibsonia,  
15 Pennsylvania, made out to Jonathan Robinson, and as  
16 I pointed out earlier, when a man gives his name as  
17 Joe Nathan, it just depends on how you cut the  
18 syllables off. J-o-e-n-a-t-h-a-n is pronounced  
19 Joe Nathan, but it can pretty easily be pronounced  
20 Jonathan, and Jonathan is spelled in this receipt  
21 that he took. J-o-e-n-a-t-h-a-n, that isn't even  
22 the proper way to spell Jonathan. So, he has been  
23 known by other names. It's in that receipt. He  
24 accepted the receipt in that name, and I said that  
25 Joe Nathan is near enough to be Jonathan, and a man

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1 named Jonathan or a name sounding like that would  
2 most likely be called Johnny, or could very well  
3 be known as Johnny by some people at least. So, I  
4 don't think we have got the wrong man.

5 As far as being in the city until 9:30  
6 on the 24th, I have no way of knowing -- there is  
7 no evidence before me, except that the warrant was  
8 issued at 9:00 p.m. on August 25th. I don't know  
9 what time of the day the affidavit was sworn to,  
10 or if in swearing to it, whether or not an officer  
11 is required to say, "My reliable informant told me  
12 that within twenty-four hours," et cetera. He could  
13 have told him that the day before, couldn't he?  
14 There is nothing that says you have got to get the  
15 search warrant immediately. You can't delay unrea-  
16 sonably, but suppose he said, "My reliable informant  
17 told me that within twenty-four hours from 3:30 p.m.,  
18 the present moment, on this day, that he saw, said,  
19 and did, or does he have to say that, "My reliable  
20 informant told me that within twenty-four hours from  
21 9:00 o'clock this morning, he saw, said, and did."  
22 The language he is using could as well relate to  
23 what the informant told him at some reasonable time  
24 past. Does he have to add on hours all day, or if  
25 he waits twenty-four hours to get the warrant, and

1 MR. DRISCOLL: Judge, on Joe Nathan Robinson,  
2 this matter was taken under advisement back on  
3 March 9, 1977. At that time we had a hearing and  
4 there was a Motion to Suppress the Commonwealth's  
5 evidence, and the Court did take it under advisement  
6 and continued the case until today.

7 I believe there will be a Motion forth-  
8 coming from Defense Counsel at this time.

9 MR. MORCHOWER: Your Honor, in view of some  
10 personal matters, I would like the Court to continue  
11 the matter to Docket Call which is Monday.

12 I think there are some mitigating reasons  
13 on my part to have both matters, the Motion under  
14 advisement and the setting for trial, continued  
15 until Monday at which time I think the Court has  
16 Docket Call, and I will be here with my client and  
17 prepared to have the Court rule on the Motion and  
18 also set the case down for trial.

19 THE COURT: Well, I am prepared to rule on  
20 the Motion today, and we've got all we can do --

21 MR. MORCHOWER: I've got a Memorandum I  
22 would like to tender to the Court.

23 THE COURT: Let me take a look at it.

24 MR. MORCHOWER: Mr. Driscoll has one.

25 THE COURT: The Court, on the Motion to

1           Supress, has done some study on its own, and I think  
2           the controlling case in Virginia is certainly the  
3           Commonwealth against Manly.

4                     Now, the affidavit gives the address as  
5           5755 Westover Hills Village when, as a matter of  
6           fact, he lives at 5755 Westover Village Drive.

7                     There is no place, apparently, from the  
8           evidence introduced, as 5755 Westover Hills Village.  
9           The map introduced by the defendant shows that there  
10          are, in Richmond, a Westover, Westover Gardens,  
11          Westover Hills Boulevard and Westover Village Drive.

12                    The Manly case was not exactly analogous  
13          in that that was an apartment within a house con-  
14          taining five apartments, and the Supreme Court was  
15          faced with the question that the wrong apartment  
16          was given in the affidavit, and they said this:

17                             The defendant says that since  
18                             the identity of the apartment to be  
19                             searched was not described with suf-  
20                             ficient particularity, the affidavit  
21                             and warrant were not valid. We do  
22                             not agree.

23                             Under the Constitution of the  
24                             United States and the Statutory Law  
25                             of Virginia, it is essential to a  
                           valid search warrant that it describe  
                           with particularity the place to be  
                           searched. All that is required, how-  
                           ever, is that the description be such  
                           that an officer charged with executing  
                           the search warrant can, with reasonable  
                           effort, ascertain the identity of the  
                           place intended.

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1 It has been generally held that  
2 a search warrant directed against a  
3 multiple occupancy structure is in-  
4 valid if it fails to describe a par-  
5 ticular sub-unit to be searched with  
6 sufficient definiteness to preclude  
7 search of other units located in the  
8 larger structure and occupied by  
9 innocent persons. But there are  
10 exceptions to the general rule.

11 Even though the search warrant  
12 directed against the multiple occu-  
13 pancy structure failed to describe  
14 the particular sub-unit to be searched  
15 will ordinarily not be held invalid  
16 where it adequately specifies the  
17 name of the occupant of the sub-unit  
18 against which it is directed and pro-  
19 vides the searching officer with  
20 sufficient information to identify,  
21 without confusion or excessive effort,  
22 such apartment unit.

23 Now, we are faced here with an affidavit that  
24 uses the name of the defendant, so with that we  
25 have no trouble.

The second thing it does is use that word  
"Westover Hills Village". Now, of all the places  
named in Richmond with the name "Westover", the only  
one with the word "Village" is the one where this  
defendant lived.

There was no evidence that the Police went  
elsewhere or that with reasonable effort they were  
unable to ascertain or identify the place intended.  
They went directly to his house, and I am reminded  
that there are places in Richmond called "Hillcrest" --

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1 I live on one of them -- there is Hillcrest Avenue,  
2 Hillcrest Road, Hillcrest Circle and Hillcrest  
3 Drive in Richmond.

4 Now, let's assume for a minute the Police  
5 had cause to search my house at 4207 Hillcrest Drive,  
6 and 4207 is correct -- I even forget where I live --  
7 Hillcrest Road -- and let's assume the Police went  
8 on an affidavit which said Hillcrest Circle and  
9 they said, that's another place, or Hillcrest Aven-  
10 ue, which is out on Cary Street Road, and they said,  
11 well, it isn't over there, the place we are talking  
12 about is over near Forest Hill Park, and they said,  
13 well, it isn't Hillcrest Avenue at all, that's  
14 Hillcrest Road.

15 Now, go back to this map and the part  
16 marked by the defendant when it was introduced.  
17 There seems to be one street called Westover, another,  
18 Westover Gardens, another, Westover Hills Boulevard  
19 and another, Westover Village Drive. Compare that  
20 with the affidavit that says 5755 Westover Hills  
21 Village, and you've got two of the three necessary  
22 words in here; you've got the only one that comes  
23 up with the word "Village" which is a very unusual  
24 name for a street, the word "Village" being part of  
25 the name of the street. It isn't Boulevard, it isn't

6.

1 Road, it isn't Circle and it isn't Drive, its  
2 Westover Hills Village.

3 So, with two of the three words proper, the  
4 number proper and the name proper, I think that  
5 under the authority of the Manly against Commonwealth,  
6 211 Va.146, that the officer charged with executing  
7 the search warrant could with reasonable effort  
8 ascertain the identity of the place intended, which  
9 he did.

10 Of course, I realize I can't look at it from  
11 hindsight, but I think looking at it at the time the  
12 officer received that warrant he could say, well,  
13 there isn't but one Westover street in Richmond with  
14 the name "Village" attached to it, and I think the  
15 unusualness of the name would be such that it would  
16 be -- simply because they put the word "Hills" in  
17 between there did not throw anybody off and would  
18 not have caused -- what is the obvious reason for  
19 this Constitutional Provision is to keep officers  
20 from searching premises occupied by innocent persons.  
21 It's designed for that purpose; it's not designed  
22 to protect the guilty, it's designed to protect  
23 innocent persons from searches under the guise,  
24 innocently or otherwise, of a search warrant.

25 Frankly, I had trouble with this matter

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because a literal reading of the Constitution of the United States does use the language which you used in your Memorandum you filed this morning -- a search warrant does describe with particularity the place to be searched -- the same language used in the Manly case, but they say all that is required is that the description be such that the officer charged with executing the search warrant can with reasonable effort ascertain the identity of the place, and I think that any officer saying the words "Westover Hills Village" would take it to mean "Westover Village" as the name of the street, so your Motion to Suppress on that grounds will be overruled.

And you want --

MR. MORCHOWER: Monday --

THE COURT: -- to set the case for trial Monday?

MR. MORCHOWER: Yes. Would that be convenient with the Court?

THE COURT: All right. Gentlemen, I thank you for these Memos even though I must say they both came in a little late. I had done some independent research, and I did know about this case, and I did know it was pretty well on point.

1 foil packet in #1 responded positively to the qualitative  
2 tests for and was identified as amphetamine, a Schedule II  
3 controlled substance. The white powder in the metal foil  
4 packet in #2 responded positively to the qualitative tests  
5 for and was identified as cocaine, a Schedule II controlled  
6 substance. Weight, .2 gram of 5% cocaine.

7           The greenish-brown substance in the plastic  
8 bag in #3 (129 grams), the greenish-brown substance in the  
9 plastic bag in #4 (7 grams), the greenish-brown substance  
10 in the plastic bag in #5 (3 grams), and the contents of the  
11 two hand-rolled cigarettes in #8 responded positively to  
12 the qualitative tests for and was identified as marijuana,  
13 a Schedule I controlled substance.

14           MR. DRISCOLL: Your Honor, we introduce this  
15 report as the items of scheduled drugs as indicated  
16 in the indictments, as Commonwealth's Exhibit No. 5.

17           THE COURT: It is so ordered.

18           (The aforesaid document was received into  
19 evidence as Commonwealth's Exhibit No. 5.)

20  
21 BY MR. DRISCOLL:

22           Q       Sir, this particular dwelling, was it occupied  
23 or unoccupied at the time you went in?

24           A       Unoccupied.

25           Q       Is it a one floor apartment or two floor

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47

1 apartment?

2 A Two story apartment. Two story with bedrooms  
3 upstairs, living room and kitchen downstairs.

4 Q Was there furniture and, if so, describe for  
5 the members of the jury, please.

6 We entered through the rear back door to the  
7 kitchen. Next be the living room, no furniture. Upstairs,  
8 two bedrooms and bath. I believe in one bedroom on the  
9 floor there was a mattress and box springs, and in the closet  
10 we found male clothes.

11 Q How much clothing was there?

12 A There wasn't that much clothing. It was a  
13 couple of male coats. Downstairs closet, I believe, had a  
14 couple of shirts, pants, you know.

15 Q Did you find any female clothing?

16 A No, sir.

17 Q Did the defendant indicate to you that it was  
18 his apartment?

19 A Yes, he did, the day that he came downtown.

20 Q And this apartment is the 5755 Westover  
21 Village Drive address where the drugs were found?

22 A That is correct.

23 MR. DRISCOLL: If Your Honor please, I have  
24 no further questions.

25

24

Virginia:

In the Circuit Court of the City of Richmond, Division 11,

the 15th day of September, 19 77.

Commonwealth of Virginia, plaintiff,)

against )

Joe Nathan Robinson, defendant,)

Order -  
Case No. 76-677-F  
through  
76-679-F

Joe Nathan Robinson, who stands indicted for

three (3) felonies, to-wit:

(Case No. 76-677-F) Possession of cocaine, a controlled drug;

(Case No. 76-678-F) Possession of amphetamines, a controlled drug; and

(Case No. 76-679-F) Possession of marijuana, a controlled drug,

with intent to distribute;

this day appeared in keeping with his recognizance, and also

appeared Michael Morchower, his Attorney at law, and John P.

Driscoll, an Assistant Attorney for the Commonwealth.

Whereupon, the defendant was found to be in contempt of Court by not making his appearance today on time, and the Court doth fine the said defendant the sum of \$25.00.

Thereupon, the defendant, being arraigned of said offenses, after consultation with counsel, pleaded not guilty to said charges.

Whereupon, the Sergeant of the City of Richmond having returned the Venires Facias issued pursuant to orders of this Court and taken from the list furnished him by the Clerk of this Court and drawn in the manner prescribed by law, a panel of twenty names from the said veniremen so summoned and attending in pursuance to said writs, free from exceptions for the trial of the defendant, was made up and completed. Thereupon, the Assistant Attorney for the Commonwealth and counsel for the defendant each alternately struck from the panel the names of

four of the said jurors, the remaining twelve constituting the jury for the trial of the defendant, to-wit: Willis Taylor, Sr., Earl L. Randolph, Pearline Harris, George W. Thompson, Guy G. Nicosia, III, Stuart R. Dobb, Dorothy P. Pacer, James Warren Hurt, Woodrow Wilson White, Raymond C. Ellis, Annie L. Stewart, and Benjamin Fields, who were sworn the truth of and upon the premises to speak.

Whereupon, at the conclusion of the introduction of evidence on behalf of the Commonwealth, counsel for the defendant moved the Court to strike the Commonwealth's evidence, which motion the Court overruled, and to which ruling of the Court, counsel for the defendant objected.

Thereupon, the jury, having fully heard the evidence, instructions of the Court, and argument of counsel, was sent to its room to consult of a verdict, and after some time returned into Court to advise that they had not yet reached a verdict.

Whereupon, the jury was adjourned until September 16th, 1977, at 9:00 o'clock, a.m., and said defendant was permitted to remain on bond.

A Copy;

Teste: Iva R. Purdy, Clerk.

By: *Robin J. Japscott*  
Deputy Clerk.

Virginia:

In the Circuit Court of the City of Richmond, Division 11,

the 16th day of September, 19 77.

Commonwealth of Virginia, plaintiff,) )  
against ) ) Order -  
Joe Nathan Robinson, defendant,) ) Case No. 76-677-F  
through  
76-679-F

This day came again the jury in keeping with its adjournment on yesterday, and also appeared the defendant in keeping with his recognizance, and Michael Morchower, his Attorney at law, and John P. Driscoll, an Assistant Attorney for the Commonwealth.

Whereupon, the jury was again sent to its room for further deliberations, and after some time returned into Court with the following verdicts, to-wit:

(Case No. 76-677-F) "We, the jury, find the defendant guilty of possession of cocaine as charged in the indictment and fix his punishment at Three years in the penitentiary.";

(Case No. 76-678-F) "We, the jury, find the defendant guilty of possession of amphetamines as charged in the indictment and fix his punishment at Three years in the penitentiary."; and

(Case No. 76-679-F) "We, the jury, find the defendant guilty of possession of marijuana with intent to distribute the same as charged in the indictment and fix his punishment at confinement in the penitentiary for Ten Years and a fine of \$5000.00."

Thereupon, counsel for the defendant moved the Court to set aside the verdicts on the ground that there are contrary to the law and the evidence, which motion the Court overruled, and to which ruling of the Court, counsel for the defendant objected.

Whereupon, on motion of counsel for the defendant,  
it is ordered that sentencing in these cases be continued to  
November 16th, 1977, pending a pre-sentence report of the Probation  
and Parole Officer of this District, and said defendant was  
ordered remanded to jail.

A Copy;

Teste: Iva R. Purdy, Clerk.

By: *Robert V. Upwood*  
Deputy Clerk.



Whereupon, the Court advised the defendant and his counsel that a pre-sentence report had been received, and that Wyatt A. Moorefield, said Officer making the report, was available and could be subjected to cross examination if the defendant so desired; thereupon, said Officer was examined as to the contents of his report.

And the Court, having fully considered said Officer's report, which is now ordered filed and made a part of the record herein, and being advised of its judgment, doth fix the punishment of the defendant at three (3) years in the Penitentiary on the conviction of possession of cocaine, in Case No. 76-677-F; and the Court doth further fix the punishment of the defendant at three (3) years in the Penitentiary on the conviction of possession of amphetamines in Case No. 76-678-F; and the Court doth further fix the punishment of the defendant at a fine in the sum of \$5,000.00 and ten (10) years in the Penitentiary on the conviction of possession of marijuana with intent to distribute, in Case No. 76-679-F, or a total of sixteen (16) years in the Penitentiary and a fine in the sum of \$5,000.00.

Whereupon, it being demanded of the said Joe Nathan Robinson if anything for himself he knew or had 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 ordered by the Court that the defendant be confined in the Penitentiary for a period of three (3) years on the conviction of possession of cocaine in Case No. 76-677-F; that he be confined in the Penitentiary for a period of three (3) years on the conviction of possession of amphetamines in Case No. 76-678-F; and that he do pay and satisfy said fine of \$5,000.00 and be

confined in the Penitentiary for a period of ten (10) years on  
the conviction of possession of marijuana with intent to distribute.

It is further ordered that the Commonwealth do  
recover of the defendant her costs incident to these proceedings,  
and that said defendant be remanded to jail for transfer to the  
Penitentiary.

A Copy;

Teste: Iva R. Purdy, Clerk.

By: *Robert J. Gapsco*  
Deputy Clerk.

**ASSIGNMENT OF ERROR**

The description of the premises set forth in the search warrant was insufficient to meet the requirement of particularity under the Fourth Amendment.