

JURY TRIAL ORDER

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF CHESTERFIELD

FIPS CODE: 041

Hearing Date: **December 12, 2000**

Judge: **Michael C. Allen**

COMMONWEALTH OF VIRGINIA

v.

CLARK JOHN BOISVERT, JR., DEFENDANT

The bifurcated jury trial of the defendant who is charged with Rape, began. The defendant appeared in person with counsel, **Keith N. Hurley**. The Commonwealth was represented by **Aubrey M. Davis, Jr.**

The defendant was previously arraigned and pled **NOT GUILTY** and requested a trial by jury.

The Court impanelled 20 qualified jurors, free from exception for the trial of the defendant, in the manner provided by law. The Court examined the jury on voir dire and allowed counsel to ask any relevant questions. The attorney for the Commonwealth and the attorney for the defendant then exercised their right to alternately strike the names of 4 veniremen from the panel and the remaining 12 jurors constituting the jury for the trial of the defendant were duly sworn.

The Court read its preliminary instructions to the jury and both the Commonwealth's attorney and defendant's attorney made their opening statements.

Upon conclusion of all the evidence, the attorney for the defendant moved the Court to strike the evidence, which motion the Court took under advisement.

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

"We the jury, find the defendant guilty of the crime of rape as charged in the indictment.

The attorney for the defendant moved the Court to poll the jury, which the Court granted. The Court found that the verdict of the jury was unanimous.

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The attorney for the defendant moved the Court to set aside the verdict. The Court, having previously taken the defendant's motion to strike under advisement, and having considered the evidence and argument of counsel, denies the defendant's motion to strike and, in accordance with the verdict of the jury rendered this day, finds the defendant **GUILTY** of the following offense(s)

CASE NUMBER	OFFENSE DESCRIPTION AND INDICATOR (F/M)	VA. CODE SECTION
CR00F01309-01	Rape (F)	18.2-61

The Court takes the defendant's motion to set aside under advisement.

The jurors were again instructed by the Court, and after hearing argument of counsel, were sent to the jury room to determine the sentence to be imposed upon the defendant. They subsequently returned with their verdict in open court, in the following words:

"We the jury, upon consideration of all the evidence, fix the defendant's punishment at:

8 years in Jail, plus overall psychological therapy and evaluation

The attorney for the defendant made a motion to set aside the verdict and moved the Court for a mistrial. After hearing argument of counsel, the Court takes the motion for a mistrial under advisement.

The Court instructed the jurors that the sentence inscribed on the verdict form was not in conformity with the Court's previous instructions and the jurors were sent to the jury room to re-determine the sentence to be imposed upon the defendant. They subsequently returned with their verdict in open court, in the following words:

"We the jury, upon consideration of all the evidence, fix the defendant's punishment at:

8 year term.

The jurors were then dismissed by the Court.

