

COURT OF APPEALS OF VIRGINIA

Present: Judges Willis, Bray and Overton
Argued at Norfolk, Virginia

WILLIAM ERIC BOLTON

v. Record No. 1900-95-1
COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION* BY
JUDGE NELSON T. OVERTON
OCTOBER 8, 1996

FROM THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS
Verbena M. Askew, Judge

Paul H. Wilson (Wilson & Wilson, P.C., on
brief), for appellant.

Margaret Ann B. Walker, Assistant Attorney
General (James S. Gilmore, III, Attorney
General, on brief), for appellee.

William Bolton was found guilty by a jury of voluntary
manslaughter and use of a firearm in the commission of a felony.

Upon motion of the defendant, the trial judge set aside the
verdict for use of a firearm. She later reiterated and explained
her ruling to the jury. After a recess, but before the
sentencing phase had begun, the Commonwealth moved to reinstate
the guilty verdict. The judge granted that motion.

By declaring her decision to set aside the verdict, the
judge in effect acquitted the defendant. Rule 3A:15(c). Having
done so, she cannot reinstate a finding of guilt. For this
reason, we reverse the conviction of use of a firearm in the
commission of a felony and dismiss the charge.

*Pursuant to Code § 17-116.010 this opinion is not
designated for publication.

Reversed and dismissed.