

Original
No. 6896

EDWARD M. NICHOLS

v.

JOSEPH VITEK, WARDEN

June 28, 1974

George L. O'Malley, by brief and orally, for the plaintiff.

Warren B. Rudman, attorney general, and *David W. Hess*, assistant attorney general (*Mr. Hess* orally), for the defendant.

PER CURIAM. This petitioner for habeas corpus seeks his liberty on the ground that his conviction for manslaughter in the first degree as a lesser included offense of murder for which he was indicted violated his constitutional and statutory (RSA 601:1) right not to be tried and convicted of the offense of manslaughter without being specifically indicted therefor.

There is no question but that manslaughter is a lesser included offense of murder. The indictment for murder contains all the allegations essential to constitute a charge of manslaughter. *State v. Butman*, 42 N.H. 490 (1861); *State v. Zelichowski*, 52 N.J. 377, 245 A.2d 351 (1968).

Petition denied.