

916. (1531)

THE STATE OF ALABAMA,  
Baldwin County

Justice Court of T. C. HAND  
Precinct 4, Bay Minette, Ala.

To Any Sheriff of the State of Alabama:  
You are hereby Commanded to Summon

*elen Sharp, Mrs* *Alles Joseph Thompson*  
*John R. Grange, J. F. Hill*

personally to be and appear before the Justice Court, to be holden for Baldwin County, at my office on the  
*26* day of *Apr*, 19*22*, and from day to day of said term,  
and from term to term thereafter, until discharged, to give evidence and the truth to speak in behalf of  
THE STATE, in a prosecution now pending in said Court, wherein the State of Alabama is plaintiff and

*Frank Charlie Brown*

Defendant, and have you then and there this Writ, with your endorsement thereon.

Witness my hand this *25* day of *Apr*, A. D. 19*22*

*T. C. Hand*  
Justice of the Peace, Precinct 4

Executed in full, this the

25 day of

April, 1952

Taylor Wilbur  
Sheriff.

H. F. Hull  
Deputy Sheriff.

1031  
INDICTMENT

---

THE STATE OF ALABAMA }  
Baldwin County.

Circuit Court, Fall Session, 1952

The Grand Jury of said County charge that before the finding of this indictment FRANK CLAIRE BROWN, whose name is to the Grand Jury otherwise unknown, unlawfully and intentionally, but without malice, killed Myra Fay Williams by striking her with a motor vehicle, against the peace and dignity of the State of Alabama.

2. The Grand Jury of said County further charge that before the finding of this indictment FRANK CLAIRE BROWN, whose name is to the Grand Jury otherwise unknown, unlawfully and intentionally, but without malice, killed Myra Fay Williams by running over her with a motor vehicle,

against the peace and dignity of the State of Alabama.

WILLIAM R. LAUTEN  
Solicitor of the Twenty-Eighth Judicial Circuit.

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RECORDED

No. ....

THE STATE OF ALABAMA,  
BALDWIN COUNTY

Circuit Court

Fall Session, 19 52

THE STATE

Vs.

FRANK CLAIRE BROWN

INDICTMENT

Manslaughter, First Degree

No Prosecutor.

WITNESSES:

R. J. Granger

George Hartley

Thelma Williams

GRAND JURY NO. 25

A TRUE BILL

*John J. Evans*  
Foreman Grand Jury.

Filed in open Court and in the presence of  
the Grand Jury on the 16<sup>th</sup> day of

Oct., 1952  
*Eric J. Hucks*, Clerk

Presented in open Court to the presiding  
Judge by the Foreman of the Grand Jury, in

the presence of 17 other Grand Jurors.

*Eric J. Hucks*  
Clerk.

Bail fixed \$1000~~00~~

*J. J. Madibury, Jr.*  
Judge.

*We, the jury, find  
the defendant guilty  
of manslaughter in  
the 2<sup>nd</sup> degree & award  
the penalty of 12 months  
hard labor & \$300 fine.*

*E. J. O'Connell*

*Jourman*

**THE STATE OF ALABAMA, }**  
**BALDWIN COUNTY**

We, Franks C. Browne, as principal, and undersigned as sureties, agree to pay THE STATE OF ALABAMA, the sum of One thousand DOLLARS unless the said Frank C. Browne appears at the next Term, 1952 of the Circuit Court of Baldwin County, Alabama, and from term to term thereafter until discharged by law, to answer a criminal prosecution for the offense of Manslaughter in the first degree

We hereby waive as to all amounts that may become due hereunder the benefit of all laws exempting personal property from levy and sale under execution or other process for the collection of debt by constitution or laws of the State of Alabama, and we hereby severally certify that we have property over and above all debts, liabilities, exemptions and this bond to the amount of: real property of the value of \$2,000.00 and personal property of the value of \$1,000.00.

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_ 195\_\_\_\_  
\_\_\_\_\_  
Baldwin County, Ala.

Frank C. Browne L. S.  
C. Broadner L. S.  
G. W. Pierce L. S.  
By C. Broadner (att in fact) L. S.

Taken and approved this the 23 day of May 1952

Jay L. Wilkins, Sheriff  
J. D. Taylor, Deputy Sheriff

I hereby certify that  
the within bond is a  
good and sufficient  
bond and would be  
approved by me if  
presented to me in  
Mobile County, Ala.  
Made this 23 day of  
May 1952

W. H. HOLCOMBE  
As Sheriff of Mobile  
County, Ala.

M. C. HALL Chief Deputy  
7

No. -----

The State of Alabama,  
Baldwin County

----- Court

Sheriff's Office

THE STATE  
vs.

Frank C. Prine

Sheriff's Appearance Bond

Amount of Bond, \$ 1000<sup>00</sup>

Filed -----, 195

-----, Clerk

1531  
STATE OF ALABAMA  
Baldwin County

Case No. 2916 No. 3384

The State of Alabama vs. Frank Marvin Brown  
In the Justice Court of Baldwin County, Alabama

Before me, J. C. Gandy, Clerk of the Justice Court of Baldwin County, Alabama, personally appeared Taylor Wilkins, who being duly sworn deposes and says:

I am the Sheriff of Baldwin County, Alabama. In the above case, in the above mentioned court, in executing the warrant of arrest or in arresting the said defendant, I or one of my duly authorized deputies, traveled 44 miles by the most direct route to the point of arrest and return, and I am entitled to mileage at ten cents per mile to be taxed as costs in the case.

Point of arrest Spanish Fort Taylor Wilkins Sheriff

Subscribed and sworn to before me this 28 day of April 1952

Disposition wanted to send J. C. Gandy Clerk Circuit Court S.P.

June  
After considering the above affidavit made by the Sheriff of Baldwin County, Alabama, I, as the trial Judge of said court, do hereby approve the claim for mileage in the sum of \$ 4.40 incurred in the making of the arrest or executing the warrant of arrest in the above styled cause and I hereby order the clerk of the court to tax the said sum as part of the costs in said case.

This the 26 day of April 1952 J. C. Gandy  
Judge of the above named court

*State vs Frank Claire Brown*

# JURY LIST

Fall Term, September 28th, 1953

NO. NAME OCCUPATION ADDRESS

- ~~1 Otto Moore, farmer, Fairhope~~
- ~~2 J. T. Morgan, farmer, Robertsdale~~ S 8
- ~~3 Chas. O. Bill, Standard Oil Co., Robertsdale~~ S 4
- ~~4 Willie Amos, clerk, Robertsdale~~
- ~~5 Richard Doering, automobile dealer, Foley~~
- ~~6 C. C. Cook, Clerk of Ch. C., Foley~~ S 7
- ~~7 J. M. Ponder, merchant, Fairhope~~ S 4
- 8 Fred Ingersoll, dairy, Fairhope
- ~~9 Jerry Volorucky, farmer, Robertsdale~~
- ~~10 Virgil V. Rhodes, Jr., dairyman, Bay Minette~~ 91
- 11 Jesse Owen Stempson, Jr., carpenter, Fairhope
- ~~12 A. C. Bryant, electrician, Bay Minette~~ 107
- ~~13 Herron Steadham, merchant, Foley~~
- ~~14 Claude Cooper, farmer, Rosinton~~ 106
- ~~15 John Crawford, inn-keeper, Gulf Shores~~
- ~~16 Alex Trione, dry cleaner, Daphne~~
- 17 M. C. Cooper, carpenter, Robertsdale
- ~~18 A. Dewey Jackson, farmer, Lottie~~ 1010
- ~~19 Roy Mikkelsen, farmer, Summerdale~~
- ~~20 Walter Jensen, truck driver, Foley~~
- ~~21 Ernest H. Holmes, parts man, Bay Minette~~ 106
- ~~22 Melton Moss, auto dealer, Foley~~ 104
- 23 John L. Herron, auto sales, Bay Minette
- ~~24 Ellis Steadham, navy yard, Foley~~
- ~~25 James A. Thomas, railroad, Foley~~ 1010
- ~~26 Joe Pittman, defense, Gateswood~~ 103
- 27 Ross Bemis, fisherman, Bon Secour
- 28 Miley Thames, farmer, Robertsdale
- ~~29 John Young, radio, Bay Minette~~ 104
- ~~30 Harold Stuart, presser, Bay Minette~~ 104
- ~~31 George Dophlipp, farmer, Daphne~~ 104
- ~~32 C. W. Moses, salesman, Robertsdale~~
- ~~33 Ralph Gantt, farmer, Little River~~ 11
- ~~34 Henry Crawford, merchant, Fairhope~~ S 2
- ~~35 Robert Thompson, clerk, Foley~~ 105
- 36 Joe Heidelberg, Jr., farmer, Silverhill
- 37 Ed Overton, Colonial Inn, Fairhope
- ~~38 Joe Allegri, hardware, Belforest~~ S 5
- ~~39 Leo A. Kuffski, fisherman, Bon Secour~~ S 1
- 40 William Nall, farmer, Bon Secour
- ~~41 Travis Bonner, farmer, Elsanor~~
- ~~42 Stanley Langer, machinist, Robertsdale~~ S 3
- ~~43 Melvin M. Woodard, mechanic, Foley~~ 109
- 44 Duncan J. Beech, farmer, Foley
- ~~45 G. E. Lipscomb, farmer, Foley~~ 103
- ~~46 James Campbell, farmer, Rosinton~~
- ~~47 Albert Flowers, farmer, Bon Secour~~ 107
- ~~48 Marvin Stanton, farmer, Rosinton~~ 109
- ~~49 R. F. Long, farmer, Foley~~ 105
- ~~50 John Norris, Jr., farmer, Foley~~ 101
- ~~51 Deval Laurent, laborer, Foley~~ S 6
- 52 Alvin A. Irwin, farmer, Gateswood
- 53 Clarence Moore, farmer, Fairhope
- ~~54 Percy Pollard, salesman, Robertsdale~~ S 10
- ~~55 Joseph Dusek, Jr., defense, Lillian~~ S 7
- ~~56 James S. Minchew, laborer, Robertsdale~~

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( Walter Baker )  
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JULY LIST  
July Term, September 28th, 1883

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James D. ...

*2nd 20 05*  
*Frank Black*  
*Brown*

# Jury List

## Criminal Session

### November 10, 1952

| No.            | Name                             | Occupation                   | Address                                |
|----------------|----------------------------------|------------------------------|----------------------------------------|
| <del>1.</del>  | <del>CHARLES C. HAND, JR.,</del> | <del>Real Estate,</del>      | <del>Bay Minette</del> <i>W</i>        |
| <del>2.</del>  | <del>ROY GRIMES,</del>           | <del>Newport,</del>          | <del>Bay Minette</del> <i>W</i>        |
| <del>3.</del>  | <del>PAUL W. FACKLER,</del>      | <del>Mechanic,</del>         | <del>Loxley</del> <i>19 4</i>          |
| 4.             | SAM PRUETT,                      | Clerk,                       | Bay Minette                            |
| <del>5.</del>  | <del>FELIX D. RIGBY,</del>       | <del>Scout Master,</del>     | <del>Daphne</del> <i>W 4</i>           |
| <del>6.</del>  | <del>HERBY REZEK,</del>          | <del>Farmer,</del>           | <del>Silverhill</del> <i>S 3</i>       |
| <del>7.</del>  | <del>THOMAS DALLE,</del>         | <del>Farmer,</del>           | <del>Blacksher</del> <i>W 4 P</i>      |
| <del>8.</del>  | <del>CHARLES GILL,</del>         | <del>Farmer,</del>           | <del>Rabon</del> <i>S 3</i>            |
| 9.             | ELMER V. NORTHUTT,               | Farmer,                      | Robertsdale                            |
| <del>10.</del> | <del>PERCY J. POSE,</del>        | <del>Carpenter,</del>        | <del>Fairhope</del> <i>W 3</i>         |
| <del>11.</del> | <del>DANIEL L. TEEL,</del>       | <del>Farmer,</del>           | <del>Robertsdale</del> <i>W 1</i>      |
| <del>12.</del> | <del>REINHOLD GEIGER,</del>      | <del>Farmer,</del>           | <del>Elberta</del>                     |
| <del>13.</del> | <del>ARTHUR CARVER,</del>        | <del>Farmer,</del>           | <del>Bon Secour</del> <i>S 4</i>       |
| <del>14.</del> | <del>VAN COOPER,</del>           | <del>Merchant,</del>         | <del>Bon Secour</del>                  |
| <del>15.</del> | <del>DAN CAMP,</del>             | <del>Health Inspector,</del> | <del>Bay Minette</del> <i>W 4</i>      |
| <del>16.</del> | <del>CHARLES J. GIBBS,</del>     | <del>Retired Navy,</del>     | <del>Foley</del> <i>W 2</i>            |
| <del>17.</del> | <del>ART VERNON,</del>           | <del>Retired,</del>          | <del>Magnolia Springs</del> <i>W 1</i> |
| <del>18.</del> | <del>R. G. GILLEY,</del>         | <del>Timberman,</del>        | <del>Elberta</del> <i>W 7</i>          |
| 19.            | REUBIN NALTE,                    | Farmer,                      | Fairhope                               |
| <del>20.</del> | <del>RAY REED,</del>             | <del>Laborer,</del>          | <del>Bay Minette</del> <i>W 3</i>      |
| <del>21.</del> | <del>ARTHUR BOLLER,</del>        | <del>Oil Dist.,</del>        | <del>Foley</del> <i>W 6</i>            |
| <del>22.</del> | <del>GUY PRESLEY,</del>          | <del>Farmer,</del>           | <del>Lottie</del>                      |
| <del>23.</del> | <del>D. B. WIGGINS,</del>        | <del>Reserve Fleet,</del>    | <del>Stapleton</del> <i>W 2</i>        |
| 24.            | RAYMOND ANDERSON,                | Farmer,                      | Summerdale                             |
| <del>25.</del> | <del>RED MATHEWS,</del>          | <del>Farmer,</del>           | <del>Robertsdale</del>                 |
| <del>26.</del> | <del>REINHARDT REMER,</del>      | <del>Farmer,</del>           | <del>Elberta</del>                     |
| <del>27.</del> | <del>CHARLES WENZEL,</del>       | <del>Clerk,</del>            | <del>Bon Secour</del> <i>W 7</i>       |
| <del>28.</del> | <del>AARON C. WEAVER,</del>      | <del>Merchant,</del>         | <del>Bay Minette</del>                 |
| <del>29.</del> | <del>HOMER LOWERS,</del>         | <del>Farmer,</del>           | <del>Foley</del>                       |
| <del>30.</del> | <del>JIM TONI ANDERSON,</del>    | <del>Farmer,</del>           | <del>Bon Secour</del> <i>W 10</i>      |
| <del>31.</del> | <del>DALE RATCLIFF,</del>        | <del>Merchant,</del>         | <del>Fairhope</del> <i>S 7</i>         |
| 32.            | ROBERT GILL,                     | Cafe,                        | Robertsdale                            |
| <del>33.</del> | <del>EVAN S. HIGBEE,</del>       | <del>Farmer,</del>           | <del>Belforest</del> <i>W 2</i>        |
| <del>34.</del> | <del>KENNETH CAIN,</del>         | <del>Merchant,</del>         | <del>Fairhope</del> <i>S 8</i>         |
| <del>35.</del> | <del>HERBERT C. ENGLAND,</del>   | <del>Mitman,</del>           | <del>Robertsdale</del> <i>W</i>        |
| <del>36.</del> | <del>GUY CHILDRRESS,</del>       | <del>Farmer,</del>           | <del>Robertsdale</del> <i>S 2</i>      |
| 37.            | JOSEPH R. KROB,                  | Farmer,                      | Silverhill                             |
| <del>38.</del> | <del>A. K. LATNER,</del>         | <del>Carpenter,</del>        | <del>Loxley</del> <i>W 8</i>           |
| <del>39.</del> | <del>DWIGHT STEELE,</del>        | <del>Edge Pender,</del>      | <del>Gulf Shores</del>                 |
| 40.            | HOLLY RAINS,                     | Farmer,                      | Daphne                                 |
| <del>41.</del> | <del>FRED C. GRIFFIN,</del>      | <del>Garage Owner,</del>     | <del>Loxley</del> <i>W 6</i>           |
| 42.            | JOE RYBAR,                       | Farmer,                      | Silverhill                             |
| <del>43.</del> | <del>ERNEST ALVIN CLARK,</del>   | <del>Instructor,</del>       | <del>Robertsdale</del>                 |
| 44.            | M. J. REEDY,                     | Postal Clerk,                | Bay Minette                            |
| <del>45.</del> | <del>FRANK EUBANKS,</del>        | <del>Carpenter,</del>        | <del>Bay Minette</del> <i>W 3</i>      |
| 46.            | LOUIS W. MANNICH,                | Farmer                       | Summerdale                             |
| 47.            | OAKLEY LEE,                      | Farmer,                      | Summerdale                             |
| <del>48.</del> | <del>V. C. CHRISTENSEN,</del>    | <del>Florist,</del>          | <del>Foley</del> <i>W 6</i>            |
| <del>49.</del> | <del>BRADY POWELL,</del>         | <del>Newport,</del>          | <del>Bay Minette</del> <i>S 3</i>      |
| <del>50.</del> | <del>ORRUVILLE WENZEL,</del>     | <del>Farmer,</del>           | <del>Bon Secour</del> <i>W 16</i>      |

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THE STATE OF ALABAMA,  
Baldwin County

TO ANY SHERIFF OF THE STATE OF ALABAMA:  
An indictment having been found against

Frank Claude Brown

at the Fall Term, 1942 of the Circuit Court of Baldwin County, for the offense of

Manslaughter, first degree

you are, therefore, commanded forthwith to arrest the said Defendant and commit him

to jail, unless he give bail to answer said indictment, and that you return this Writ according to law

Dated this 16<sup>th</sup> day of Oct, 1942

Alice J. Hensch  
Clerk Circuit Court of Baldwin County.

THE STATE OF ALABAMA,  
Baldwin County

We, \_\_\_\_\_, as principal and

the other undersigned as sureties, agree to pay the State of Alabama \_\_\_\_\_

Dollars, unless the said \_\_\_\_\_ appears

at the \_\_\_\_\_ Term of the Circuit Court of Baldwin County, and from Term to

Term thereafter until discharged by law, to answer a criminal prosecution for the offense of \_\_\_\_\_

In signing the above bond we and each of us hereby waive all legal rights of exemptions allowed us by the Constitution and Laws of Alabama.

Witness our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 194\_\_\_\_\_

\_\_\_\_\_  
(L. S.)

\_\_\_\_\_  
(L. S.)

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(L. S.)

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(L. S.)

\_\_\_\_\_  
(L. S.)

Taken and approved \_\_\_\_\_ day of \_\_\_\_\_, 194\_\_\_\_\_

\_\_\_\_\_  
Sheriff of Baldwin County.

201531

**CAPIAS**

No. 25

**THE STATE**  
vs.

Frank Clavin Brown

Bail Fixed in This Case in Open Court at  
\$ 100000

By J. J. Mackburn Jr.  
Judge Presiding.

Attest: Wm J. ...  
Clerk.

Executed this 22 day of Oct, 1952

By arresting the within  
named Defendant

and placing him On Bond

J. J. Wilkin, Sheriff

\_\_\_\_\_, Deputy Sheriff

Q mi

*[Faint, mostly illegible text from the reverse side of the document, including a date stamp 'OCT 22 1952' and other markings.]*

PETITION FOR PROBATION

STATE OF ALABAMA  
PLAINTIFF  
VS  
FRANK CLAIRE BROWN  
DEFENDANT

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,  
AT LAW  
CRIMINAL SIDE

Comes now, Frank Claire Brown, Defendant in the above styled cause and shows unto the Court that he was convicted of Manslaughter in the second degree on the 29th day of September, 1953, and on the 3rd day of October, 1953, was sentenced to a 12 month term of hard labor for the County and a \$300.00 fine and cost. The Defendant moves the Court to suspend the execution of this sentence and grant him the benefit of probation.

Respectfully Submitted,  
Wilters & Brantley

BY: *Phyllis J. Wilters*  
Attorneys for the Defendant

STATE OF ALABAMA

PLAINTIFF

VS

FRANK CLAIRE BROWN

DEFENDANT

PETITION FOR PROBATION

*Filed 9-18-54  
Alice French  
Clerk*

1001  
MAY 11 1954

THE STATE OF ALABAMA --- JUDICIAL DEPARTMENT

THE ALABAMA COURT OF APPEALS

OCTOBER TERM, 1953-54

1 Div. 682

Frank Claire Brown

v.

State

Appeal from Baldwin Circuit Court

CARR, PRESIDING JUDGE

The accused was indicted for the offense of manslaughter in the first degree and convicted of the lesser offense of manslaughter in the second degree.



2.

According to the State's evidence the appellant was driving his automobile while in an intoxicated condition. His car left the highway and ran into a yard near a dwelling where a mother was sweeping and two of her little children were playing. The car overturned and beneath its weight crushed one of the children to death. The child was six years of age. This occurred at about the hour of 4 P. M.

The defendant denied that he was intoxicated at the time, although he admitted that he drank three bottles of beer between the hours of 11 A. M. and 2 P. M. on the day in question. He testified that as he was attempting to pass another car the vehicle pulled out into his lane of travel and he was required to apply his brakes. This caused appellant's automobile to leave the highway and turn over in the yard near by.

In brief appellant's attorney pressed three matters upon which insistence is urged for reversible error. It appears from the record that these include all questions which merit any discussion in this opinion.

The defendant made a statement to a highway patrolman about an hour and a half after the injury to the child. During this time he was in the custody of the officers and had been since immediately following the collision.

The solicitor asked the patrolman this: "What was his condition at the time, Mr. Granger?"

The objections were: "Your Honor, we object; it is far removed from the scene of the crime; he has testified that it was some two hours afterwards."

The objections were overruled and the witness replied:

"At the time I got there he was up-stairs and they had him brought down and he couldn't talk coherently and he kept rubbing his neck and looking at the ceiling. I asked him what happened

3.  
and the first statement he started to make was that he was trying to pass a pick-up truck and he changed that and said that a truck came out of the Malbis road and then he later on said he met a car and had to leave the highway. His speech was not coherent at all."

Appellant's attorney argues that it was error to admit evidence of the drunken condition of the accused some time after the alleged crime without requiring the State to establish first that he had not had access to intoxicating liquors during the time intervening. Cases are cited to sustain this position.

An analysis of the inquiry will illustrate our view that these authorities are without application.

The question to which objections were interposed did not relate necessarily to intoxication. The grounds posed to the objection did not call the court's attention to the complained omission in the proof. Jones v. State, 29 Ala. App. 126, 193 So. 179; Millhouse v. State, 235 Ala. 85, 177 So. 556.

The answer does not contain any specific statement that the defendant was intoxicated. For aught appearing the described physical and mental condition may have been caused by fear, shock, or injury. In fact, the appellant testified that his neck was injured in the collision.

On direct examination the patrolman never did testify that the defendant was drunk or intoxicated at the time of the indicated conversation.

Following the above quoted reply, the officer stated that he detected the odor of alcohol on defendant's breath. However, there were no objections interposed to the question which invited the answer.

A witness for the State testified that she saw the defendant a short time before the injury to the child at a vantage

4.  
point of about 125 yards and observed that he went behind a little house and "relieved himself." She stated that he was not obstructed from her view.

Apparently the solicitor gave some emphasis to this incident to aid the State's contention that defendant was intoxicated.

Subsequently in the trial proceedings the defendant described to the court and jury the location of various sheds and outhouses which were in the yard at the place about which we are immediately concerned.

Following this discription he was asked: "Did you have any reason to go back of these sheds to relieve yourself instead of going to the bath room?"

The court sustained the solicitor's objections to this question.

The insistence is made that the answer should have been allowed in order to give the appellant an opportunity to explain circumstances which were brought out by the State and which may have had detrimental effects upon him. Among the authorities cited to sustain the position is our case - Cummings v. State, 34 Ala. App. 650, 43 So. 2d 326.

Upon factual foundation quite dissimilar to that in the case at bar, we announced the general rule which provides that if one party inquires into a matter the other party should be allowed to go into the entire transaction and give evidence, if he can, which would tend to explain the detrimental effects of the initial proof. The justice of this doctrine cannot be denied.

Assuming but not deciding that the form of the question of concern invoked the application of this rule, we are clearly convinced that in the instant case the accused was not injured by

5.  
a disallowance of the answer. He described the location of these outbuildings somewhat in detail. The evidence discloses that there was considerable privacy around the premises where he was seen. The State's witness who observed him was one hundred and twenty-five yards away.

We entertain serious doubt that the jury concluded that it was any indication of intoxication for the defendant to go out behind a shed in a rural or semi-rural section and answer a call of nature.

We think that Supreme Court Rule 45 should be applied.

To fairly and accurately present the next question we will copy from the record:

"Q. Mrs. Williams, has Mr. Brown come to you and offered you \$1,000 dollars?

"MR. WILTERS: I object; he is attempting to prejudice the jury and it's not in rebuttal --

"THE COURT: Sustain the objection.

"Witness: Yes --

"THE COURT: Suppose Mr. Brown didn't offer that?

"WITNESS: Yes, sir, yes --

"MR. WILTERS: That's the second time she has said that.

We object --

"THE COURT: Sustain the objection.

"MR. WILTERS: We make a motion for a mistrial?

"THE COURT: Overrule the motion.

"MR. WILTERS: We except.

"MR. BRANTLEY: We move to exclude that -

"THE COURT: Deny the motion.

"MR. BRANTLEY: We except."

The insistence is made that this was an offer of compromise and the affirmative answer of the witness should have been

6.  
excluded. It is urged also that the detriment to the defendant was so great that a mistrial should have been ordered.

It is to be noted that the court sustained the objection to the question. This was the proper ruling if the matter of compromise was involved. It is not certain that this is true. If the indicated offer was to induce suppression of evidence or false testimony, the objections could have been overruled without error. Register v. State, 19 Ala. App. 11, 94 So. 778.

The motion to exclude is very general. It does not specifically point out the matter sought to be excluded.

The motion is not supported by any grounds. If we should read into the motion an intent to exclude Mrs. Brown's affirmative answer, we are faced with the rule that a general objection was not sufficient. The reply was not patently inadmissible as we have illustrated above. Under these circumstances special grounds should have been stated. Hendrix v. State, 8 Div. 392, Ala. App. Ms.; Barfield v. State, 19 Ala. App. 374, 97 So. 378; Slaughter v. Green, 205 Ala. 250, 87 So. 358.

Obviously there was no error in the action of the court in denying the motion for a mistrial.

It is ordered that the judgment below be affirmed.

**AFFIRMED.**

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

1st Div., No. 682

Franz Claire Brown Appellant

v.

The State Appellee

From Baldwin Circuit Court

The State of Alabama,  
City and County of Montgomery. }

I, Charles Bricken, Jr., Clerk of the Court of Appeals of Alabama, do hereby certify that the foregoing pages numbered from one to six inclusive, contain a full, true and correct copy of the opinion of said Court of Appeals in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, Charles Bricken, Jr., Clerk of the Court

of Appeals of Alabama, at the Capitol, this the

11 day of May, 1954

Charles Bricken, Jr.  
Clerk of the Court of Appeals of Alabama.

**THE COURT OF APPEALS OF ALABAMA**

1st Div., No. 682

Frank Claire

Braun

Appellant

vs.

The State

Appellee

From Baldwin Circuit Court.

**COPY OF OPINION**

THE OFFICE OF THE CLERK OF THE COURT OF APPEALS OF ALABAMA

1331

AFFIDAVIT

*Mrs. Fay Williams*

age 4.  
Printed by Moore Ptg. Co.

The State of Alabama,  
Baldwin County

In the Justice Court of T. C. HAND

Before me, T. C. HAND, Justice of the Peace

in and for said County, personally appeared H. F. Hall who, being  
duly sworn, deposes and says on oath that he has probable cause for believing and does believe that in said County, on

or about 25 April 1952 that one Frank Clencie Brown  
unlawfully, but without malice, on the intention  
to kill, killed Mrs. Fay Williams by negligently  
driving a car with the motor vehicle he was  
operating.

against the peace and dignity of the State of Alabama

Sworn to and subscribed before me this 25

day of April A. D., 1952  
T. C. Hand, J. P.

H. F. Hall

WARRANT

THE STATE OF ALABAMA,  
Baldwin County

To Any Lawful Officer of Said County, Greetings:

You are hereby commanded to arrest Frank Clencie Brown

and bring him  
before me to answer the State of Alabama on a charge  
manslaughter

and have you then and there this writ with your return thereon

Witness my hand this 25 day of April, 1952  
T. C. Hand, J. P.



State of Alabama,  
Baldwin County

Justice Court of  
T. C. HAND

AFFIDAVIT.

The State of Alabama,  
vs.

*Frank Clairie Brown*

Witnesses for the State:

*Alfer Joseph Kempton*  
*Helen Sharp*  
*Mrs Johnson*  
*R. J. Branga*  
*W. F. Hall*

Justice Court of  
BALDWIN COUNTY

Warrant of Arrest

THE STATE OF ALABAMA,  
vs.

*Frank Clairie Brown*

Executed this 25 day of April 1922

By arresting the within

named Defendant

and placing him *in jail*

*Payle Wilkin*, Sheriff  
*Harley & Hall*, Deputy Sheriff  
*Sparksport*

1531

THE STATE OF ALABAMA, }  
Baldwin County

We, Frank Virnie Browne, as principal, and undersigned as sureties, agree to pay THE STATE OF ALABAMA, the sum of One Thousand DOLLARS unless the said Frank Virnie Browne appears at the next Term, 1952 of the Circuit Court of Baldwin County, Alabama and from term to term thereafter until discharged by law, to answer a criminal prosecution for the offense of Manslaughter

We hereby waive as to all amounts that may become due hereunder the benefit of all laws exempting personal property from levy and sale under execution or other process for the collection of debt by constitution or laws of the State of Alabama, and we hereby severally certify that we have property over and above all debts, liabilities, exemptions and this bond to the amount of: real property of the value of \$2,000.00 and personal property of the value of \$1,000.00.

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 195\_\_\_\_\_  
\_\_\_\_\_  
Baldwin County, Ala.

F. Browne L. S.  
G. Brewer L. S.  
Chas. Broache L. S.  
B. Brewer L. S.

Taken and approved this the 22 day of Oct, 1952

Jaylo Wilkins Sheriff  
By \_\_\_\_\_ Deputy Sheriff

Div. No. \_\_\_\_\_

CERTIFICATE OF APPEAL. (Criminal Cases.)

No. 1531

Baldwin County, Circuit Court

FRANK CLAIRE BROWN,  
Appellant

VS.

The State of Alabama,  
Appellee

The State of Alabama,  
Baldwin County, The Circuit Court of Baldwin  
County.

I, Alise J. Duck, Clerk of the Circuit Court  
of Baldwin County in and for said County and State, do  
hereby certify that in the above stated case, which was tried and  
determined in this Court on the 29th day of September 19 53, and  
the defendant convicted by a Jury of the offense of Manslaughter, 2nd Deg  
\_\_\_\_\_, and that on the 3rd day of October 19 53,  
said defendant was sentenced to a term of 12 months hard labor for the Cour  
and \$300.00 fine and cost, which said sentence was suspended  
pending an appeal to the Court of Appeals Court of Alabama.

I further certify that on this the 3rd day of October  
19 53, the defendant gave notice in writing of an appeal to the  
Court of Appeals Court of Alabama.

Witness my hand and the seal of this Court, this the 1st  
day of December 19 53.

\_\_\_\_\_  
Clerk of Circuit Court of  
Baldwin County, Alabama,

1531

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

October Term 1953

To the Clerk of the Circuit Court of Baldwin County—Greeting:

Whereas, in the matter of Fausc Claire Brown, Appellant,

vs.

Herstate, Appellee,

recently pending in the Court of Appeals of Alabama, on appeal from the said

Court of Baldwin County,

our Court of Appeals did on the 11 day of May, 1954,

render a judgment of affirmance

in said cause; and,

Whereas, a certificate of such action of the Court of Appeals was duly issued to you, and thereafter an application for a rehearing of said cause was filed in this Court on the 24 day of May, 1954; and overruled.

Now, it is hereby certified, that our Court of Appeals, or one of the Justices thereof, did, on the 15 day of June, 1954, order that the said certificate be recalled.

And you will accordingly return the same to this office at once, together with copy of the opinion in said cause issued to you.

Witness, Charles Bricken, Jr., Clerk of the Court of Appeals of Alabama, at the Capitol, this the

15 day of June, 1954

Charles Bricken, Jr. Clerk of the Court of Appeals of Alabama.

1531

1573

THE COURT OF APPEALS OF ALABAMA

October Term, 1953

1st Div., No. 682

Frausk Elaine

Brown

Appellant

Trustee

Appellee

From Baldwin Circuit Court.

CERTIFICATE OF RECALL

On Application for Rehearing

Baldwin

THE STATE OF ALABAMA,

County.

Filed this \_\_\_\_\_ day of

19\_\_\_\_\_

155'

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

October Term 19 53

To the Clerk of the Circuit Court  
of Baldwin County—Greeting:

Whereas, the Record and Proceedings of the Circuit Court  
of said county, in a certain cause lately pending in said Court between

Frank Claire Brown, Appellant,

and

The State, Appellee,

wherein by said Court, at the Term, 19, it was considered  
adversely to said appellant, were brought before our Court of Appeals, by appeal taken, pursuant  
to law, on behalf of said appellant:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered by our Court of Appeals, on the  
11th day of May 19 54, that said judg-  
ment of said Circuit Court be in all things affirmed,  
and that it was further considered that the appellant ~~xxxx~~

pay the cost accruing on said appeal in this Court and in the Court below.

Witness, Charles Bricken, Jr., Clerk of the Court  
of Appeals of Alabama, at the Capitol, this the  
11th day of May, 19 54

*Charles Bricken, Jr.*  
Clerk, Court of Appeals of Alabama.

JUN 1 1954 APPLICATION FOR REHEARING JUN 1 1954 OVERRULED

AUG 30 1954 Certificate Denial Supreme Court. Petition denied

THE COURT OF APPEALS OF ALABAMA

October Term, 19 53

1st Div., No. 682

Frank Claire Brown

Appellant,

vs.

The State

Appellee.

From Baldwin Circuit Court.

CERTIFICATE OF AFFIRMANCE.

THE STATE OF ALABAMA,

Baldwin County. }

Filed this 12th day of

May 19 54

Attest J. French  
Clerk

Handwritten notes and signatures on the right side of the page, including a signature that appears to be "J. French" and some illegible text.



THE STATE OF ALABAMA }  
Baldwin County - Circuit Court }

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the .....  
..... Monday in ....., 194....., in a cer-  
tain cause in said Court wherein ..... STATE OF ALABAMA

..... Plaintiff, and FRANK CLAIRE BROWN  
..... Defendant, a judgment was rendered against said

FRANK CLAIRE BROWN  
to reverse which Judgment....., the said

FRANK CLAIRE BROWN

applied for and obtained from this office an APPEAL, returnable to the next  
Term of our Court of Appeals..... Court of the State of Alabama, to be held at Montgomery,

on the ..... day of ....., 194..... next, and the necessary bond  
having been given by the said FRANK CLAIRE BROWN

..... with C. E. Matthews and W. C. Hoffman....., sureties,

Now, You Are Hereby Commanded, without delay, to cite the said .....

..... or Hon. Kenneth Cooper

....., attorney, to appear at the next..... Term of our  
Court of Appeals  
said Supreme Court, to defend against the said Appeal, if ..... think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 1st.....  
day of December....., A. D., 19453.

Attest:  
....., Clerk.

I hereby accept service this 2nd day of December 1953,

*Samuel H. Cooper*  
Solicitor

**CIRCUIT COURT**  
**Baldwin County, Alabama**

STATE OF ALABAMA

Vs. } Citation in Appeal

FRANK CLAIRE BROWN

Issued ..... day of ....., 194.....

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

October Term, 1953.

To the Clerk of the Circuit Court  
of Baldwin County—Greeting:

Whereas, in the matter of  
Theresa Claire Braun Appellant,

vs.

Shelton, Appellee,

recently pending in the Court of Appeals of Alabama, on appeal from the said

Court of County,

our Court of Appeals did on the 11 day of May, 1954,

render a judgment of affirmance

in said cause; and,

Whereas, a certificate of such action of the Court of Appeals was duly issued to you, and  
thereafter an application for a rehearing of said cause was filed in this Court on the 24  
day of May, 1954,

Now, it is hereby certified, that our Court of Appeals, or one of the Justices thereof, did,  
on the 24 day of May, 1954, order that the said certificate be recalled.

And you will accordingly return the same to this office at once, together with copy of the opinion  
in said cause issued to you.

Witness, Charles Bricken, Jr., Clerk of the Court

of Appeals of Alabama, at the Capitol, this the

24 day of May, 1954

Charles Bricken, Jr.  
Clerk of the Court of Appeals of Alabama.

1531

THE COURT OF APPEALS OF ALABAMA

October Term, 1953

1st Div., No. 682  
Frank Claire  
Braum,  
Appellant.....

The State  
Appellee.....

From Baldwin Circuit Court.

CERTIFICATE OF RECALL  
On Application for Rehearing.

THE STATE OF ALABAMA, }  
County. }

Filed this..... day of  
19.....

STATE OF ALABAMA

VS

FRANK CLAIRE BROWN

DEFENDANT

Ø

Ø

Ø

Ø

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

AT LAW

NOTICE OF APPEAL

Comes now the Defendant, Frank Claire Brown, by Wilters & Brantley, his attorneys of record and appeals to the Court of Appeals of the State of Alabama from:

- 1. The verdict of the court adjudging the Defendant, Frank Claire Brown, guilty entered on the 3rd day of October, 1953.

Dated this the 3rd day of October, 1953.

WILTERS & BRANTLEY

BY: Albert M Brantley  
Attorney for Defendant

Appeal

Frankie Claire  
Brown

Frankie Claire Brown  
1414 1/2  
1414 1/2

Notice of appeal from the order of the court.

The court has rendered its decision in the case of Frankie Claire Brown.

The court has rendered its decision in the case of Frankie Claire Brown.

at the time of the hearing.

The court has rendered its decision in the case of Frankie Claire Brown.

The court has rendered its decision in the case of Frankie Claire Brown.

DATE: 12-1-54

STATE OF MISSISSIPPI

IN

COURT OF APPEALS

BY: J. W. BROWN

CLERK OF COURT

STATE OF MISSISSIPPI

notice of appeal

1531

STATE OF ALABAMA  
BALDWIN COUNTY

IN THE CIRCUIT COURT

We, Frank Claire Brown, C. H. Matthews and W. E. Hoffman agree to pay to the State of Alabama the sum of ONE THOUSAND (\$1000.00) DOLLARS, unless the said Frank Claire Brown appears at the next term of the Circuit Court of Baldwin County, and from term to term thereafter until discharged by law, to answer a criminal prosecution for the offense of Manslaughter, Second Degree.

And we, and each of us, hereby waive all exemption we may have to any personal property under the Constitution and Laws of the State of Alabama as to the collection of the penalty of this bond.

Witness our hands and seals this 3rd day of October, 1953.

The condition of the above obligation is such that, whereas the above bound Frank Claire Brown was duly convicted in the Circuit Court of Baldwin County on the 29th day of September, 1953, of the above stated offense, and has duly applied for and obtained an appeal from said conviction, and sentence to the Court of Appeals for the State of Alabama, and the amount of his appeal bond has been duly and legally fixed at said above stated sum:

Now, therefore, if the said Frank Claire Brown shall appear at the next term of the Circuit Court of Baldwin County, and from term to term thereafter until discharged by law, and abide the judgment of the said Court of Appeals for the State of Alabama, then this obligation to be void and of no effect; otherwise to remain in full force and effect.

F. C. Brown (SEAL)  
C. H. Matthews (SEAL)  
W. E. Hoffman (SEAL)

Approved this 3rd day of Oct, 1953.

Alvin J. Rouse  
Clerk

# Transcript of Criminal Cases from Justice Court of Baldwin County, Ala.

| Attorneys       | Case                      | Charge              |
|-----------------|---------------------------|---------------------|
|                 | THE STATE OF ALABAMA.     |                     |
| No. <i>2916</i> | Vs.                       |                     |
|                 | <i>Frank Clinis Brown</i> | <i>Manslaughter</i> |

| Disposition of Case                                     | Fees                                   | Amount       |
|---------------------------------------------------------|----------------------------------------|--------------|
| Affidavit made and Warrant Issued to <i>H. F. Tell.</i> | Judge's Fees                           |              |
| Returnable <i>Grand Jury.</i>                           | Warrant at 50c, Affidavit at 25c       | <i>75</i>    |
| Witness—for State <i>Alfred Jacob Thompson</i>          | Bond at 50c, Sci Fa at 50c             |              |
| <i>Helen Shain, Mrs. Johnson</i>                        | Witnesses' Recognizances at 25c        |              |
| <i>R. J. Brantley, H. F. Tell.</i>                      | ✓ Subpoena or notice at 25c            | <i>1.25</i>  |
| <i>Hager</i>                                            | Continuance at 25c                     |              |
| <i>as was brought before me and</i>                     | Trial of Misdemeanor at \$1.00         |              |
| <i>reported hearing he waived the</i>                   | Mittimus at 25c                        | <i>25</i>    |
| <i>Grand Jury I</i>                                     | Judgment on Forfeited Bond at 25c      |              |
| <i>Bond was set at 2,000</i>                            | Taking Bond, etc, on Appeal at \$2000  |              |
| <i>as being unable to make bond was</i>                 | Execution of costs at 25c to jail      | <i>25</i>    |
| <i>Order committed to jail.</i>                         | Constable's Fees                       |              |
|                                                         | Subpoena or Notice at 25c              |              |
|                                                         | Carrying Defendant before Justice      |              |
|                                                         | each mile for himself and guard at 10c |              |
|                                                         | Arrest 50c                             |              |
|                                                         | Sheriff's Fees                         |              |
|                                                         | Arrest \$2.00 Bond, \$1.00, Sci Fa 50c | <i>4.00</i>  |
|                                                         | Committing \$1.00, Releasing \$1.00    | <i>2.00</i>  |
|                                                         | Subpoenas at 25c Day's Board at 30c    | <i>2.50</i>  |
|                                                         | Witness Fees                           | <i>4.40</i>  |
|                                                         | Days at 50c                            | <i>2.00</i>  |
|                                                         | Days at 50c                            | <i>50</i>    |
|                                                         | " 50c                                  | <i>50</i>    |
|                                                         | " 50c                                  | <i>50</i>    |
|                                                         | " 50c                                  | <i>50</i>    |
|                                                         | " 50c                                  | <i>50</i>    |
|                                                         | " 50c                                  | <i>50</i>    |
|                                                         | DEFENDANT'S COSTS                      |              |
|                                                         | Witnesses' Recognizance at 25c         | <i>75.00</i> |
|                                                         | Subpoenas at 25c                       | <i>1.25</i>  |
|                                                         | Executing Subpoenas                    | <i>2.50</i>  |

*T. J. Lued*  
*Justice of Peace.*



1531