

1696

INDICTMENT

Baldwin Times - 600 - 6 - 50

THE STATE OF ALABAMA,
Baldwin County.

Circuit Court, FALL Session, 1953

The Grand Jury of said County charge that before finding this indictment
Albert Sidney Denton, alias Jimmy Montgomery, whose name is to the Grand Jury
otherwise unknown, unlawfully, and with malice aforethought, killed
Leroy E. Miller by shooting him with a pistol,

against the peace and dignity of the State of Alabama.

Kenneth Cooper
Solicitor of the Twenty-Eighth Judicial Circuit.

RECORDED

No.

THE STATE OF ALABAMA,

BALDWIN COUNTY

Circuit Court

FALL SESSION Term, 1953

THE STATE

Vs.

ALBERT SIDNEY DENTON,

Alias Jimmy Montgomery

INDICTMENT

MURDER, 1st Degree

No. Prosecutor.

WITNESSES:

W.E. KINGREY

MRS W.E. KINGREY

GEORGE CRAWFORD

TAYLOR WILKINS

DR NELSON GRUBBS

MRS PEARL MILLER

GRAND JURY NO. 48

A TRUE BILL

Clyde G. Little

Foreman Grand Jury.

Filed in open Court and in the presence of
the Grand Jury on the 16th day of

September, 1953

Archie J. Tucker Clerk.

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

the presence of 17 other Grand Jurors.

Archie J. Tucker Clerk.

Bail fixed \$

Judge.

We the Jury find the defendant
guilty of Murder in the first degree
as charged in the Indictment
and fix his punishment at Life
imprisonment in the Penitentiary

Signed

Harry C. Bill
Foreman

1696
STATE OF ALABAMA

VS.

ALBERT SIDNEY DENTON

IN THE CIRCUIT COURT
OF
BALDWIN COUNTY
ALABAMA
NO. _____

Comes now Albert Sidney Denton, Defendant in the above styled cause, and brings this his verified motion or petition for a change of venue in this cause, assigning therefor the following separate and several reasons:

1. Defendant cannot obtain a fair and impartial trial in this jurisdiction.

2. It is impossible for Defendant to obtain a fair and impartial trial in this judicial circuit for that for several weeks prior to the date of the trial of this cause THE MOBILE PRESS REGISTER, the principle daily newspaper of general and wide circulation throughout all of Baldwin County, Alabama, has consistently run a series or a number of news articles circulated throughout this County designating and referring to Defendant as "A big-time gangster", a "bank robber", as this trial's being the "highlight of a spectacular crime record blazed across the Southland in recent years", that this trial "may bring startling new developments in the law's probe into a long series of misdeeds with which Denton and or acquaintances have been linked", that Denton is connected with "bank robberies, mail fraud, gun-point jail escape, the slaying of a law enforcement officer and minor crimes", that Defendant is connected with a gang whose "operation---has taken the best efforts of federal, state and local law enforcement to unravel them", that said news articles have made similar and repeated charges or accusations or expressed such opinions time and time again, as recently as March 21, 1954, and March 24, 1954, ^{and the early morning edition of} copies of a few of ^{March 25, 1954} which articles are attached hereto, made a part hereof, and marked Defendant's Exhibits F, G, H + I.

3. That Defendant is convinced, and believes that the Court will be reasonably satisfied, that the citizens of this County, including the jurors subpoenaed for this cause, because of such news articles and widespread rumors and conversation similar thereto, have a preconceived belief as to the guilt of Defendant, are

Filed 3.25.54
Alice J. Welch
Clerk

prejudiced in this cause, cannot give Defendant a fair and impartial trial, have been inflamed against Defendant, and are therefore not qualified to sit in judgment on Defendant, all evidenced by the attached affidavits, made a part hereof, and marked Defendant's Exhibits A, B, C, D & E.

4. That said news articles, said public opinion, and said prejudice, particularly the news articles of March 21, 1954, and March 24, 1954, did not come to the knowledge of Defendant or his attorneys until afternoon March 24, 1954, that the widespread prejudice and bias against Defendant was not known to Defendant

or his attorneys until March 24, 1954, and that to the best of the knowledge, information and belief of Defendant and his attorneys, said prejudice, bias and Defendant's inability to obtain a fair and impartial trial have become increased or accentuated during the last few days because of said articles and public discussion.

5. That the only way that Defendant can obtain a fair and impartial trial is for this cause to be transferred and removed to another jurisdiction which has not been exposed to such news articles and public discussion.

WHEREFORE, Defendant respectfully moves and prays that he be granted a change of venue in this cause, that this cause be transferred and removed to another jurisdiction, and that Defendant be granted such other relief to which he may be entitled.

George C. Hawkins

Albert Sidney Denton
DEFENDANT

W. H. Butts
ATTORNEYS FOR DEFENDANT

STATE OF ALABAMA

BALDWIN COUNTY

Before me the undersigned authority personally appeared Albert Sidney Denton, who being first duly sworn, deposes and says that the things and matters alleged in the foregoing motion or petition are true and correct according to the best of his knowledge.

This the 25th day of March, 1954.

Subscribed and sworn to before me this 25th day of March, 1954.

Albert Sidney Denton

Archie L. Smith
NOTARY PUBLIC
Archie L. Smith

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Defr. Exhibit A

STATE OF ALABAMA

COUNTY OF BALDWIN

My name is Isaac Weatherford. I reside in Baldwin County, Alabama. In my opinion due to the unusual amount of newspaper publicity, widely circulated throughout the County, which pictures Albert Sidney Denton as a gangster and a man who has been convicted of many serious offenses and who has been connected with many dangerous and notorious criminals, he, Denton, can not receive a fair and impartial trial in Baldwin County, Alabama. There has been much conversation in Baldwin County for the past few weeks that Denton, the gangster and notorious criminal will be tried this week.

Isaac Weatherford

Subscribed and sworn to
before me on this 24th
day of March, 1954.

Albert Bantrell
NOTARY PUBLIC

STATE OF ALABAMA) SS.
COUNTY OF BALDWIN)

Before me Albert B. Burtwell A Notary Public, in said

County, and for said State, Personally appeared _____

who by me being first duly sworn, deposes and says as follows,

My name is Alton King, I reside in Baldwin County

Alabama. In my ^{OPINION} ~~opinion~~ Albert Sidney Denton, whose case is set

on Thursday, March 25, 1954, can not receive a fair and impartial

~~trial~~ ^{TRIAL}, because of the unusual amount of prejudicial newspaper

publicity, circulated throughout Baldwin County in the past few

weeks. ~~An~~ ^{This publicity and} artical appearing in the Mobile Press Register, on

Sunday, March 21, 1954, headed "Denton Trial Opens Thursday In

Bay Minette; Charged with Bizarre Slaying Of LeRoy Miller" has

inflamed the minds and prejudiced the peoples mind to such an

extent that ~~that~~ ^{can} Denton ~~could~~ not receive a fair trial in Baldwin

County. The chief topic of conversation in this county for the past

~~week~~ few days, has been that a big time gangster and bank robber

will be tried here March 25, 1954. The publicity connects Denton

with many serious criminal offences, and with many notorious criminals.

~~The~~

dated this 24th day of March, 1954.

By: Alton L. King

Sworn to and subscribed to before me on this the 24th. day of
March, 1954.

Albert B. Burtwell
Notary Public

Deft Ex C

STATE OF ALABAMA) ss.
COUNTY OF BALDWIN)

Before me *Albert B. Smith* A Notary Public, in said
County, and for said State, Personally appeared *Gertrude J. Mader*
who by me being first duly sworn, deposes and says as follows,

My name is *Gertrude J. Mader*, I reside in Baldwin County
Alabama. In my ^{OPINION} ~~opinion~~ Albert Sidney Denton, whose case is set
on Thursday, March 25, 1954, can not receive a fair and impartial
trial, because of the unusual amount of prejudicial newspaper
publicity, circulated throughout Baldwin County in the past few
weeks. ~~An article~~ ^{*This publicity and*} appearing in the Mobile Press Register, on
Sunday, March 21, 1954, headed "Denton Trial Opens Thursday In
Bay Minette; Charged with Bizarre Slaying Of LeRoy Miller" has
inflamed the ~~mind~~ and prejudiced the people's ~~mind~~ to such an
extent that ~~that~~ ^{can} Denton ~~will~~ not receive a fair trial in Baldwin
County. The chief topic of conversation in this county for the past
~~xxx~~ few days, has been that a big time gangster and bank robber
will be tried here March 25, 1954. The publicity connects Denton
with many serious criminal offences, and with many notorious criminals
~~xxx~~
dated this *24th* days of March, 1954.

By: *Gertrude J. Mader*

Sworn to and subscribed to before me on this the 24th. day of
March, 1954.

Albert B. Smith
Notary Public

1696.

Deft Ex D

STATE OF ALABAMA)
COUNTY OF BALDWIN) SS.

March 24, 1954

My name is Cyrus C. Little, I reside in Baldwin County, Alabama. In my opinion due to the unusual amount of newspaper publicity, widely circulated throughout the County, which pictures Albert Sidney Denton as a gangster and a man who has been convicted of many serious offenses and who has been connected with many dangerous and notorious criminals, he, Denton could not receive a fair and impartial trial in Baldwin County, Alabama. The chief topic of conversation in Baldwin County for the past few weeks has been that Denton the gangster and notorious criminal will be tried this week.

Cyrus C. Little

Sworn to and Subscribed to before me a Notary Public in said County and for said State, this the 24th. day of March, 1954.

By:

Albert B. Smith
Notary Public.

16.96

Deft Ex E

STATE OF ALABAMA }
COUNTY OF BALDWIN) SS.

March 24, 1954

My name is Alfred B. King, I reside in Baldwin County, Alabama. In my opinion due to the unusual amount of newspaper publicity, widely circulated throughout the County, which pictures Albert Sidney Denton as a gangster and a man who has been convicted of many serious offenses and who has been connected with many dangerous and notorious criminals, he, Denton could not receive a fair and impartial trial in Baldwin County, Alabama. The chief topic of conversation in Baldwin County for the past few weeks has been that Denton the gangster and notorious criminal will be tried this week.

By: Alfred B. King

Sworn to and Subscribed to before me a Notary Public in said County and for said State, this the 24th. day of March, 1954.

Albert B. Bunt
Notary Public.

1670
C A P I A S

Moore Printing Co.

THE STATE OF ALABAMA, } To Any Sheriff of the State of Alabama:
Baldwin County

An indictment having been found against

Albert Sidney Denton, alias Jimmy Montgomery

at the Fall Term, 1953, of the Circuit Court of Baldwin County, for the offense of

Murder, 1st 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 17th day of September, 1953

W. J. Smith
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 the State of Alabama.

Witness our hands and seals this _____ day of _____, 19_____

(L. S.)

(L. S.)

(L. S.)

(L. S.)

Taken and approved _____ day of _____, 19_____

Sheriff of Baldwin County.

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CAPIAS

No. 48

THE STATE
vs.

Albert Sidney Denton, alias

Jimmy Montgomery

Bail Fixed in This Case in Open Court at

\$

By Judge Presiding.

Attest: Clerk.

Executed this 17th day of Sept, 1953

By arresting the within

named Defendant

and placing him in jail

J. W. Wilkins, Sheriff

, Deputy Sheriff

Q. M. M.

1696
for
deletion file

STATE OF ALABAMA

BALDWIN COUNTY

CIRCUIT COURT

CRIMINAL DIVISION

TO THE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF
GEORGIA, JOSEPH H. YOUNG, AND THE UNITED STATES MARSHAL FOR THE
SOUTHERN DISTRICT OF ALABAMA, JAMES L. MAY,

GREETINGS:

I command you, the Marshal for the Southern District of
Georgia, Joseph H. Young, at Savannah, Georgia, and the Marshal for
the Southern District of Alabama, James L. May, at Mobile, Alabama,
to deliver and surrender the body of CLETUS JOSEPH GOLDMAN, now held
by the said Marshal for the Southern District of Georgia, Mr Joseph
H. Young, as it is said, to the Sheriff of Baldwin County, Alabama,
Taylor Wilkins, for him to do as herein commanded; and

The said Sheriff of Baldwin County, Alabama, Taylor Wilkins,
is hereby commanded, upon receiving the body of the said Cletus
Joseph Goldman from the custody of said Marshals, under safe and
secure conduct, before the Grand Jury of Baldwin County, Alabama,
at Bay Minette, Alabama, at any time between the hours of 10:00 AM
and 4:00 PM, and between the dates of 8th March, 1954, and 10 March,
1954, there to testify in a cause which is pending before the Grand
Jury of said County, and is Grand Jury Case No. 1; and immediately
after the said Cletus Joseph Goldman shall have testified in said
case you, the said United States Marshals, return him, the said
Cletus Joseph Goldman, to the United States Marshal for the Southern
District of Georgia, at Savannah, Georgia, under safe and secure
conduct, and have you then and there this writ.

Hubert M. Hall
Hubert M. Hall

Circuit Judge

28th Judicial Circuit

Done this 4th day of March, 1954.

ATTEST:

Alice J. Duck
Alice J. Duck
Clerk, Circuit Court
Baldwin County, Alabama

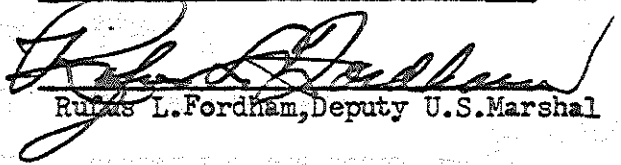
UNITED STATES OF AMERICA

Southern District of Georgia

I hereby certify and return on March 8th, 1954 at Savannah, Ga. I received this writ and on March 9th, 1954 I executed this writ by taking the within named Cleatus Joseph Goldman from the Chatham County, Georgia Jail Savannah, Ga. and delivering him to Taylor Wilkins, Sheriff of Baldwin County, Alabama to testify before Grand Jury of Baldwin County, Alabama, at Bay Minette, Alabama, I further executed this writ by returning the within named Cletus Joseph Goldman from Bay Minette, Ala. to the Chatham County Jail, Savannah, Georgia in Southern District of Georgia, on March 11, 1954.

This the 11th day of March 1954.

Joseph H. Young, U.S. Marshal


Rufus L. Fordham, Deputy U.S. Marshal

Div. No. _____

CERTIFICATE OF APPEAL. (Criminal Cases.)

No. 1696

Baldwin County, Circuit Court

LEON SIDNEY DENTON,
Appellant

VS.

The State of Alabama,
Appellee

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

I, Alice 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 26th day of March 1954, and
~~Motion for New Trial Overruled on the 5th day of August 1954~~
the defendant convicted by a Jury of the offense of _____
Murder, First Degree, and that on the 26th day of March 1954,
said defendant was sentenced to a term of Life
_____, which said sentence was suspended
pending an appeal to the Supreme Court of Alabama.

I further certify that on this the 26th day of March
1954, the defendant gave notice ^{orally} in writing of an appeal to the
Supreme Court of Alabama: ~~and from judgment overruling~~
~~Motion for New Trial on the 10th day of August 1954~~

Witness my hand and the seal of this Court, this the 2nd
day of November 1954.

Alice J. Duck
Clerk of Circuit Court of
Baldwin County, Alabama,

1696

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Postponed Of Albert Denton Will Open Trial

BAY MINETTE, Ala.—

The once-postponed murder trial of dapper Albert Sidney Denton, 33-year-old convict, begins Thursday in the gang-style killing of mystery man Leroy E. Miller.

Denton, former Birmingham lumber man, has twice pleaded innocent to the 1952 slaying of Miller, former cowboy and gold prospector whose body, along with three bullets, was found near St. Elmo in Mobile County in February of 1953.

State Solicitor Kenneth Cooper was to present the government case against Denton. Following selection of a jury at the circuit court trial, he is expected to call between 15 and 20 witnesses.

Defense Attys. Albert Boutwell, Birmingham, and Rep. George Hawkins, Gadsden, have said they will use about 15 witnesses, including Lurton L. Heflin, Jr., 33, charged with first degree murder also in Miller's death.

Date of his trial has not been set.

Heflin Cited

Heflin is also charged in the \$52,000 robbery of the First End Branch of the First National Bank, Birmingham, and the \$902 robbery of People's Industrial Bank, Lauderdale.

He has told news that in an interview with Birmingham he was present when Miller was slain and that the shooting came when one of several men became angry at Miller's failure to give the proper signal to a plane which was landed at a south Baldwin County airport with a shipment of nar-

Probe Of Slaying Was Long, Difficult



WHEN ALBERT SIDNEY DENTON, 32, goes on trial next Thursday in Bay Minette, the occasion will be a highlight of a long effort by officers to solve the slaying of Leroy E. Miller. In the photo above, Sheriff Taylor Wilkins (left) of Baldwin County, Deputy George Crawford (center) and Mobile County Sheriff William H. Holcombe examine a pistol found on Denton when he was arrested in Gadsden. Ballistics tests made by Toxicologist Nelson Grubbs showed the gun fired one of the bullets found in Miller's skeleton.

... Press Register Staff Photos



the races, and Miller was seen subsequently to drive away from the fishing lodge with several men.

Investigation by authorities has disclosed that Denton, using the alias of Montgomery, was in Mexico with Miller at one time prior to the fatal shooting.

Denton confirmed his acquaintanceship with Hornbeck and Goldman when a news reporter interviewed him in the Mobile jail shortly after Hornbeck and Goldman had escaped the Savannah jail and participated in the shooting at Jacksonville.

Asked for comment on their action, Denton declared: "They were fools . . ." He added, he loved the pair "like brothers."

The escape of Hornbeck and

Goldman was made possible after their wives visited them in the Georgia jail and admittedly smuggled a pistol in to them. The women now are in jail awaiting trial on charges of aiding the escape.

Moved From Wyoming

In an interview for publication after arriving in Alabama to make his home on the Bon Secour River, Miller said he moved South to escape the rigors and hardships of operating a ranch in the cold Western country of Wyoming.

On the walls of his lodge hung trophies of hunts in the West, cowboy regalia and rodeo pictures. He said he was once married to a champion woman rodeo rider.

At the time of the interview,

Miller expressed intense interest in fishing. And it was evident, as he fished in the river, bay and Gulf on numerous occasions.

Once when he was on one of his boats, which he used to take out fishing parties, he was injured by an explosion.

He and Mrs. Miller had four children.

Qualified, financially able, life agent wanted to help get American Atlas Life of Texas qualified to do business in Alabama, and to be representative on most attractive proposition. We have the best Hospital Policy on the market today. American Atlas Life Insurance Co., 1007 Main St., Dallas, Texas. Prospect 3509.

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Denton

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(Continued From Page One)

cotics. He did not name the man he claims shot Miller.

Baldwin County Sheriff Taylor Wilkins has said "there isn't a word of truth" in Heflin's statement.

Hornbeck Charged

Also charged with murder in Miller's death is Samuel Jay Hornbeck, 34, recently convicted in the slaying of Patrolman Thomas A. Robinson, Jr., of Duval County, Fla., in a gun battle at Jacksonville last December.

The conviction carries an automatic death penalty. Authorities have said it is doubtful if Hornbeck will be brought here to face the charges.

Denton's criminal record, dating back to 1949, includes conviction of automobile theft, use of the mails to defraud in connection with the bankruptcy of a Birmingham lumber concern, and conviction on charges of participating in the \$83,359 robbery of a Citizens & Southern National Bank branch at Savannah April 10, 1953.

Already sentenced to prison terms in the Savannah case are Hornbeck and Thomas Brewer, a Savannah garage man.

Goldman Slain

Myron Peter Goldman, 32, also sentenced in the case, was slain in the Jacksonville gun battle after he and Hornbeck escaped from a Savannah jail last December.

Miller was known hereabouts as somewhat of a mystery man who wore cowboy attire and owned several large automobiles, an airplane and a yacht.

He disappeared Aug. 15, 1952, after riding away from his fishing lodge in a car with several men. His wife reported his absence six weeks later. She said she delayed reporting because Miller often went away for long periods without letting her know where he was.

About six months after Miller's body was found by rabbit hunters, Denton was picked up in Gadsden on a charge of interstate transportation of firearms.

Toxicologist Nelson E. Grubbs of Mobile identified one of his guns as the weapon which fired one of the bullets found with Miller's body, and Denton was brought here and charged with murder.

A scheduled trial of Denton here last October was postponed at the state's request.

DENTON TRIAL

(Continued From Page One)

back to 1939 when he was convicted of automobile theft. It involves conviction for using the mails to defraud in the bankruptcy of a Birmingham lumber concern, conviction in the robbery of a Savannah, Ga., bank and a charge of participation in the robbery of a bank at Fort Lauderdale, Fla. The judge delayed sentencing in the Savannah case and he hasn't been tried on the Fort Lauderdale charge.

Also facing a murder count in the death of Miller is Lurton L. Heflin, Jr., who, following his arrest in Florida, injected a new angle in the Miller death. Heflin said he was present at the time Miller was slain and that Denton did not kill the former cowboy.

The trial is scheduled to get under way in the circuit court room Thursday morning.

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Ref

The Mobile Press

MOBILE, PRICHARD, CHICKASAW, ALABAMA, WEDNESDAY AFTERNOON, MARCH 24, 1954

IN WILD CHICAGO

DENTON'S TRIAL OPENS THURSDAY IN BAY MINETTE

About 30 Witnesses Called
To Testify In Leroy
Miller Murder

BAY MINETTE, Ala. — Between 27 and 30 witnesses have been summoned to appear here Thursday to testify in the trial of Sidney Denton, 32-year-old Birmingham man, charged with the slaying of a man, cowboy, who became an inmate in the life of South Baldwin County.

The state charges Denton murdered Leroy E. Miller, 36-year-old operator of a Bon Secour River fishing lodge, whose body was found near St. Elmo, in South Mobile County more than five months after he mysteriously disappeared.

Miller, his arm in a sling as the result of a wound received in Mexico, where he had engaged in a gold mining operation, faded away on Aug. 15, 1952.

The months dragged on with no word from the small, colorful man who said he was a former Wyoming cowboy and ranch owner. Then came developments in the case: His body was found in July, 1953, by rabbit hunters and positively identified by false teeth and the bullet-fractured arm bone.

It was not until six months later, however, that the next big break came for Baldwin Sheriff Taylor Wilkins and Deputy George Crawford, whose job it was to ferret out the mysterious death. At Gadsden, Ala., law-enforcement authorities picked up Denton on a charge of interstate transportation of firearms.

PISTOLS FOUND

One of two .33 pistols found in Denton's possession was declared by Toxicologist Nelson E. Grubbs of Mobile to have been the weapon that fired one of three bullets found in the remains of Miller.

Miller was brought to Baldwin County and charged with murder, to which accusation he has twice pleaded "not guilty."

The trial is to be held before Circuit Judge H. M. Hall, with Solicitor Kenneth Cooper prosecuting and Attys. Albert Boutwell of Birmingham and George Hawkins of Gadsden, defending Denton.

It will highlight the spectacular career of Denton, a former convict, who joined others in blazing a trail of crime across much of the South.

Denton has a record that harks
(Continued on Page 4, Col. 8)

BOAT SINKS IN

Girl Expected To Survive 175-Foot Skid Down Slope

MT. RAINIER NATIONAL PARK, Wash.—(AP)—A school girl walking along a parapet overlooking a waterfall, slipped and fell 175 feet onto an icy mound here Wednesday but survived and is expected to recover. The ice mound's sloping sides were credited by a park ranger with probably saving her life. The girl is Dolores Van Parys, 7, of Seattle. She and another girl, Marilyn McQuane, 17, were returning from viewing Narada Falls when Dolores slipped on the icy pathway, slid 20 feet down the parapet side and plunged to the stream bank below. Frank T. Hirst, assistant chief ranger who aided in the hour-long rescue effort which brought the girl to a waiting ambulance, said she struck the ice mound a glancing blow, sliding down its sides into ice and snow in the creek bed. Dolores still was conscious but could only mumble "pick me up, pick me up," and "please get me out of here." Her clothing was torn in shreds by the fall. All that two male companions could do, after making their way down a path, was cover her from the waterfall's icy spray and the 30-degree cold until park rangers brought rescue equipment. She was taken to a hospital at Morton. A doctor said she is suffering from a brain concussion, a fractured neck vertebrae and internal injuries.

CAR THEFT RING INVOLVES DENTON

Hornbeck Also Is Accused
In Big-Time Racket

BRUNSWICK, Ga. — (AP) — The government was to try to show Thursday that four persons arrested in a three-state FBI crackdown were operating a big-time stolen car racket. On trial are Curtis Fallen, Jacksonville service station operator; Irene, his wife; H. D. Trice, garage operator at Brunswick, and Jack Lynn, now serving time on an auto theft conviction. Thomas Curtis Jones of Jacksonville, Fla., who has been sentenced to seven years and two days on car-stealing charges, testified for the prosecution Wednesday. Jones entered a guilty plea in Montgomery last week to 14 counts of auto theft. He told the court he was the ring's agent for selling cars and testified that Fallen and his wife got him into the racket.

NAMES DENTON, HORNBECK

Mrs. Fallen told him, he testified, that she and her husband had been working an auto racket with Samuel Hornbeck and Sidney Denton, both of whom have been convicted of robbing a Savannah bank. Hornbeck has been sentenced to death for killing a Jacksonville policeman. Jones said Mrs. Fallen told him there was no reason to include Hornbeck and Denton in the new operation. The group stole serial number plates from unlocked cars and later obtained a motor car registration for the number stolen, Jones said. He added that the Georgia registration afterwards was taken to Florida. A transfer license was bought there, he said. Jones said he got in a dispute with the Fallens after they told him they had to pay a large sum for the Florida transfer license when actually they paid only a dollar. He became angry and used Mrs. Fallen's car to drive away.

DENTON ENTERS INNOCENT PLEA

Prisoner Is Pale And Wan
After Stay In Jail

EAY MINETTE, Ala. — Pale and wan after two months of solitary confinement, Albert Sidney Denton pleaded innocent in court here Wednesday to a first-degree murder charge in the slaying of a Bon Secour fishing lodge operator. Denton, 22-year-old former Birmingham lumberman and convicted bank robber, appeared in Circuit Court here for a second arraignment, preparatory to his going on trial charged with the slaying of Leroy E. Miller, 36, prominent Baldwin County sportsman and former cowboy. Handcuffed and under close guard, Denton, and his attorney, State Sen. Albert Boutwell, Birmingham, watched as Circuit Judge H. M. Hall drew the names of 16 men for a special venire to serve with a panel of 75 already drawn for jury duty when court opens here Monday. It is customary to draw a special venire in capital cases. Denton will go on trial here next Thursday. Miller's remains were found at St. Elmo in Mobile County on Feb. 7, 1952, six months after he disappeared from his Bon Secour home. He returned from a gold prospecting venture in Mexico on Aug. 15, 1952, and was last seen on that day. Two others have been indicted for murder in the Miller slaying. They are Samuel J. Hornbeck, 34, and Lurion L. Heflin, 33. Hornbeck last week was convicted of murder at Jacksonville, Fla., in the slaying of a Florida road patrolman. The death sentence for Hornbeck is mandatory, as the Jacksonville jury failed to recommend mercy. Trial of Heflin in the Miller slaying has been deferred until the disposition of bank robbery charges against him at Birmingham, where he is in federal custody.

Denton Trial Opens Thursday In Bay Minette; Charged With Bizarre Slaying Of Leroy Miller

BAY MINETTE, Ala.—A big-time gangster and bank robber goes on trial here next Thursday in one of the South's most mysterious slayings.

Albert Sidney Denton, 32-year-old former Birmingham lumberman, will face the court, charged with the murder in 1952 of Leroy E. Miller, colorful ex-cowboy and gold prospector who for several years operated a fishing lodge on Bon Secour River, in South Baldwin.

The trial, scheduled to be held before Judge Hubert M. Hall, promises to be highlight of a spectacular crime record blazed across the Southland in recent years by Denton and his pals.

It may bring startling new developments in the law's probe into a long series of misdeeds with which Denton and or acquaintances have been linked.

These include: Bank robberies, mail fraud, gun-point jail escape, the slaying of a law enforcement officer and minor crimes.

So complex and far-reaching have been the gang's operation that it has taken the best efforts of federal, state and local law enforcement to unravel them.

In the role of prosecutor in the baffling Miller slaying will

be Kenneth Cooper, Baldwin County circuit solicitor, who will be matching legal skill and wits with Defense Attys. Albert Boutwell of Birmingham and Rep. George Hawkins of Gadsden.

Miller disappeared Aug. 15, 1952. Witnesses at his Bon Secour fishing lodge—The Lynn Mar—said he rode away in a big black car with several men.

Six weeks later, his wife, Mrs. Pearl Miller, a striking brunete, reported his disappearance to Mobile Detective Capt. Talley Rollings. It was four months after Miller was last seen alive that Mrs. Miller reported the matter to Baldwin County Sheriff Taylor Wilkins.

The wife was quoted by officers as saying she delayed making the report because Miller frequently went away from home for long periods without reporting his whereabouts.

On Feb. 17—about six months after the August disappearance, rabbit hunters found a skeleton—just off Highway 90, 2½ miles

FOUND—CHIN CLEANERS DO BETTER cleaning. One-hour Service. All garments finished with the Fabricare process. The garments will look better and stay pressed longer. Pressed while you wait. Guaranteed satisfaction or money refunded.—Adv.

south of St. Elmo, in Mobile County.

Lying in the remains, were



Albert Sidney Denton
... convicted bank robber

bullets of two sizes—.38 and .32-calibre.

The victim was identified as Miller through false teeth and a fractured arm—the latter received, according to Nelson Hamilton, Foley photographer, when Miller was shot in Mexico by an intoxicated native.

Hamilton told investigators the shooting occurred while he and Miller were in Mexico on a gold prospecting expedition. He said they had received a lease to develop a mine in the Sierra Madre mountains.

Armed with only the meagre clues found around the bones of Miller, Sheriff Wilkins, Deputy George Crawford and Toxicologist Nelson E. Grubbs started working night and day on the case.

For months their efforts were unrewarding. Finally, in July, 1953, a break came in the arrest of Denton and his wife at Gadsden, Ala., on a charge of interstate transportation of arms. Found on Denton were two high-powered .38 pistols.

Toxicologist Grubbs later announced that the .38 bullet found in Miller's remains was fired by

(Page 14, Col. 3, DENTON)

Mobile Press Register March 21, 1954

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Denton

(Continued From Page One)

one of the weapons found in Denton's possession.

The suspect was shortly thereafter transferred by the federal authorities, who had preferred the gun-running charge, to Sheriff Wilkins and he was brought here and charged with murder.

Indicted for murder in 1953, Denton was to have been tried here last Fall, but the case was postponed at the request of the state.

Long Criminal Record

Denton's criminal record reaches back to 1949. He has been convicted of automobile theft and of using the mails to defraud in connection with the bankruptcy of a Birmingham lumber concern. He was convicted on charges of participating in the \$83,359 robbery of a Citizens & Southern National Bank branch in Savannah. The holdup was staged April 10, 1953.

Already sentenced to prison terms ranging from 15 to 25 years in the Savannah case are Samuel Jay Hornbeck, 34, and Thomas Brewer, the latter a Savannah garage man.

Myron Peter Goldman, 32, also sentenced to 25 years in prison in the bank robbery, was slain in a gun battle which he and Hornbeck staged with Jacksonville, Fla., officers after the pair escaped jail at Savannah. Sentencing of Denton in the same case has been delayed, pending outcome of the murder hearing.

Investigators have expressed the belief that Hornbeck and Myron Peter Goldman were responsible for society party robberies staged in recent years at Nashville, Indianapolis and Omaha.

Arrested In St. Paul

The two men were picked up at St. Paul, Minn., two days after Denton was arrested at Gadsden. An FBI representative said Denton, Hornbeck and Goldman spent more than \$25,000 in cash for three expensive automobiles and house trailers within two days after the Savannah robbery.

Recently Lurton L. Heflin, Jr., 33, and Hornbeck were charged

in Birmingham, Heflin issued a statement saying he was present when Miller was slain, but that Denton did NOT commit the murder.

He contended the shooting took place at a private airport in South Baldwin, when Miller incurred the displeasure of one of several men by not properly signalling a plane which was to have delivered a narcotics shipment valued at \$300,000.

Sheriff Wilkins discounted Heflin's statement, declaring "there's not a word of truth in it."

During the long months they have worked on the slaying case, Wilkins and Crawford, with the full co-operation of FBI authorities, have traced many clues.

The brunette Mrs. Miller was questioned at length at Bay Minette as were other close acquaintances of the slain man. Included among these were: Rufus Howard Harden and Will Max Harden, brothers. Howard Harden operates the Canal Cafe, south of Foley.

Hardens On Bond

Both the Hardens are now free under \$7500 bonds each following their indictment by a federal grand jury on charges of

robbery. The government charges Howard Harden with some of the loot.

Miller was a smallish man. Since coming to Alabama from Wyoming where he to have once owned a large ranch, he took a leading part in the promotion of such as the South Baldwin State Trout Rodeo and the annual Alabama State Foxhunts.

On such occasions, he was identified by the cowboy jeans and boots he wore. However, he owned several automobiles, a private plane and a yacht.

The plane was used to trips to Mexico, where Heflin says he and Miller engaged in the gold mine operation. He had just returned from there when he disappeared. At the time he was wearing his a sling, as a result of being shot by the Mexican.

On the afternoon of his appearance, Miller was present to attend the night dog race near Pensacola with his wife. Mrs. Miller said, however, prior to leaving, he received a telephone call and announced he could not attend the race.

Seen With Men

Mrs. Miller reportedly

1696

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 4th

Monday in March, 1954, in a cer-
(Motion For New Trial August 10, 1954)
tain cause in said Court wherein STATE OF ALABAMA

Plaintiff, and ALBERT SIDNEY DENTON

Defendant, a judgment was rendered against said

ALBERT SIDNEY DENTON

to reverse which Judgment, the said ALBERT SIDNEY DENTON

applied for and obtained from this office an APPEAL, returnable to the next

Term of our Supreme Court 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 no bond

with , sureties,

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

STATE OF ALABAMA

or

Hon. Kenneth Cooper

, attorney, to appear at the next Term of our

said Supreme Court, to defend against the said Appeal, if they think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 2nd

day of November, A. D., 1945.

Attest:

Alice J. Duck, Clerk.

I hereby accept service this
2nd day of November 1954.

Kenneth Cooper

AFFIDAVIT

Printed by Moore Printing Co.

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 Taylor Wilkins 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 15 August 1952 that one Albert Sidney Denton

Unlawfully, and with malice aforethought, killed Leroy E. Miller, by
shooting him with a pistol.

against the peace and dignity of the State of Alabama

Sworn to and subscribed before me this 11

day of July, A. D., 1953

J. P.

Taylor Wilkins

WARRANT

State Of Alabama, }
Baldwin County. }

To Any Lawful Officer of Said County, Greetings:

You are hereby commanded to arrest Albert Sidney Denton

and bring him

before me to answer the State of Alabama on a charge

Murder

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

Witness my hand this 11 day of July, 1953

T. C. Hand, J. P.

No. _____ Page _____

The State of Alabama,
Baldwin County.

JUSTICE COURT OF

T. C. HAND

AFFIDAVIT

THE STATE OF ALABAMA,
VS.

Albert Sidney Denton

Witnesses for the State :

Taylor Wilkins.

Dr. Nelson Grubbs
George Crawford
Mrs Pearl Miller
Mrs W. E. Kingery
W. E. Kingery
Howard Harden
Mary Harden
Max Harden
B.O. Staurt
Sonny Bryce

Justice Court of
Baldwin County

WARRANT of ARREST

THE STATE OF ALABAMA,
VS.

Albert Sidney Denton

Executed this 11 day of July 1953

By arresting the within

named Defendant

and placing him

in jail
Taylor Wilkins, Sheriff

Deputy Sheriff

Om

The State of Alabama
Baldwin County

TO ANY SHERIFF OF THE STATE OF ALABAMA,—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON D. O. Stuart

at the instance of the State of Alabama, If he should be found in your County, personally
Justice of the Peace Bay Minette, Ala.
to be and appear before the Circuit Court of Baldwin County at the present term thereof, to be holden at the Court
House in Bay Minette, Ala., to wit: on Monday 24th, the day of August, 1953
at 9:00 AM, and to bring with him and produce at the time and place aforesaid, to be used as evi-
dence (here describe it),

Books and records of all transactions of the Canal Cafe and
Cottages for the month of August 1952

and then and there testify and the truth to speak concerning all and singular those things of which he may have
knowledge, or the said instrument of writing doth import of, and concerning a certain suit now pending and un-
determined in said Court, wherein State of Alabama
Plaintiff, and Albert Sidney Denton Defendant.
And this he shall in nowise omit, under penalties of what the law directs, and shall have you, then and there this
writ with your endorsement thereon in what manner you have executed same.

Witness my hand, this 22nd day of August, 1953

Justice of Peace

Clerk

Executed by sewing
a copy of this
within on
D.O. Stuart this
22nd day of
August 1953
Lafayette, Wekin
Shiff

No.....

THE STATE OF ALABAMA
Baldwin County

State of Alabama

Plaintiff

VS. SUBPOENA DECUS TECUM

Albert Sidney Denton

Defendant

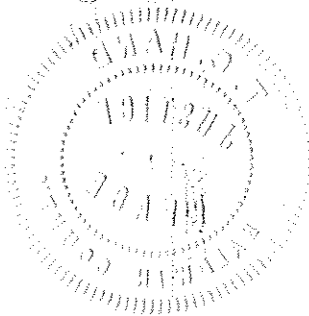
Circuit Court

WITNESSES:

SET FOR TRIAL

24th day of August 1953

TIMES, BAY MINETTE



4959 1696

THE STATE OF ALABAMA, }

BALDWIN COUNTY

To Any Sheriff of the State of Alabama:

Justice Court of

T. C. / Laid

Precinct No

X, Baymonte Ala.

You Are Hereby Commanded to Summon

Mrs Grace Kingery

Sunny Brice

personally to be and appear before the Justice Court, to be holden for Baldwin County, at my office on the 24 day of Aug. 9 A.M. 1952 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 DEFENDANT in a prosecution now pending in said Court, wherein the State of Alabama is Plaintiff, and Albert Sidney Denton

Defendant, and have you then and there this Writ, with

your endorsement thereon.

Witness my hand this

24 day of Aug. 1952

NOTARY PUBLIC AND EX-OFFICIO J. P.

Executed in full, this the

9 2nd

day of

August, 1953

Taylor Wilkin
Sheriff.

Deputy Sheriff

16916
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: Dr. Nelson Grubbs, George Crawford,
You are hereby Commanded to Summon Mrs Pearl Miller, Mrs W.E. Kingery, W.E. Kingery

Howard Harden, Mary Harden, Max Harden, D. O. Stuart, Taylow Wilkins, Sonny Bryce.

personally to be and appear before the Justice Court, to be holden for Baldwin County, at my office on the

-----24----- day of -----August----- 9 A.M.-----, 1953-----, 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

Albert Sidney Denton

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

Witness my hand this 22----- day of -----August-----, A. D., 1953-----

T. C. Hand
Justice of the Peace Precinct No. 4

Executed in full, this the

22nd day of

August, 1953

Jay L. Wilkins
Sheriff

Deputy Sheriff

The State of Alabama
Baldwin County

TO ANY SHERIFF OF THE STATE OF ALABAMA,—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON MARY HERDEN

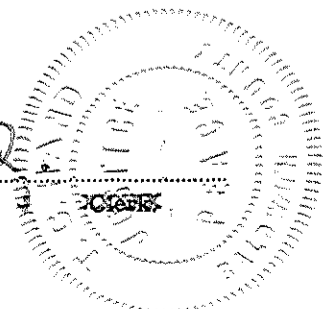
at the instance of the STATE OF ALABAMA, If she should be found in your County, personally
to be and appear before the Justice of the Peace Bay Minette, Ala.
House in Bay Minette, Alabama to wit: on Monday, 24th, the day of August, 1953
at 9:00 AM, and to bring with her and produce at the time and place aforesaid, to be used as evi-
dence (here describe it),

Registration Book for Guests, and all official records for the establishment
of the CANAL CAFE, for the month of August, 1952,

and then and there testify and the truth to speak concerning all and singular those things of which she may have
knowledge, or the said instrument of writing doth import of, and concerning a certain suit now pending and un-
determined in said Court, wherein State of Alabama
Plaintiff, and Albert Sidney Denton Defendant.
And this she shall in nowise omit, under penalties of what the law directs, and shall have you, then and there this
writ with your endorsement thereon in what manner you have executed same.

Witness my hand, this 22nd day of August, 1953.

J. P. Smith
Justice of Peace



Executed by Sewing
a copy of this within
on Mary Harden
this 22nd day of
August 1953
J. W. Wilkins
Sheriff

original

No.....

THE STATE OF ALABAMA
Baldwin County

STATE OF ALABAMA

Plaintiff

VS. SUBPOENA DECUS TECUM

ALBERT SIDNEY DENTON

Defendant

Circuit Court

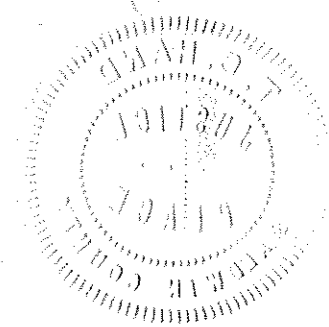
WITNESSES:

MARY HARDEN

SET FOR TRIAL

24 day of August 1953

TIMES, DAY MINETTE



1696

STATE OF ALABAMA)	IN THE CIRCUIT COURT OF BALDWIN COUNTY,
	:	
Plaintiff,)	28th JUDICIAL CIRCUIT OF ALABAMA
	:	
Vs.)	
	:	
ALBERT SIDNEY DENTON,)	NO. _____
	:	
Defendant.)	

PETITION FOR WRIT HABEAS CORPUS AD TESTIFICANDUM

TO THE HONORABLE HUBERT HALL, JUDGE OF SAID CIRCUIT COURT:

Comes the Defendant, Albert Sidney Denton, by and through his attorney, and as grounds for the order and relief hereinafter sought and prayed for would respectfully represent unto the Court as follows:

1. The Defendant is confined without bond, awaiting trial upon an indictment returned by the Grand Jury of Baldwin County at the Fall Session of 1953, wherein he is charged with the offense of murder in the first degree, a capital felony, for the alleged homicide of one Leroy E. Miller, which said indictment is presently pending upon the docket of this honorable Court, and which cause has been set and now stands for trial in said Court on the 25th day of March 1954, at 9:30 A. M.

2. One L. L. Heflin, presently in confinement as a prisoner in the County Jail of Jefferson County, Birmingham, Alabama, is an essential and absolutely necessary *and indispensable* witness on behalf of Defendant upon the trial of this cause, and the said Heflin has been heretofore subpoenaed by the prosecution herein, and has since made a public statement to the effect that, to his the said Heflin's knowledge, the Defendant had nothing to do with the alleged homicide or shooting of the said Leroy E. Miller.

3. The Defendant, on the basis of the aforesaid statement transcribed in writing, expects to show by the testimony of the said Heflin that the Defendant did not participate in the said alleged homicide and is not guilty of any offense charged in the indictment.

4. For as much as the said Heflin is in custody and confinement as aforesaid, it becomes necessary that the Defendant, in order to make available his testimony, to apply through appropriate means to procure his attendance as a witness upon said trial, the

said Heflin not being amenable to ordinary process of subpoena by reason of his confinement.

WHEREFORE, THE PREMISES CONSIDERED, the Defendant prays that Your Honor will cause to be forthwith issued the writ of habeas corpus ad testificandum, to be executed and served upon the person or persons having custody of the said L. L. Heflin, commanding and requiring that they produce the body and person of the said Heflin before this Court not later than 9:30 a.m., on the 25th day of March, 1954, and from time to time and day to day thereafter, in order that he may be available to give testimony throughout the trial of this cause.

And Defendant prays for such other, further, different and general and incidental orders, writs and process as will secure to him the benefit of the compulsory attendance of the said witness.

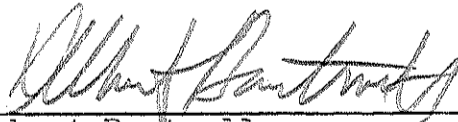
Respectfully submitted,



Albert Boutwell,
Attorney for Defendant.

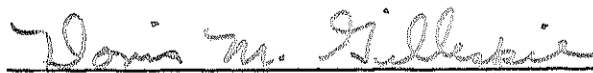
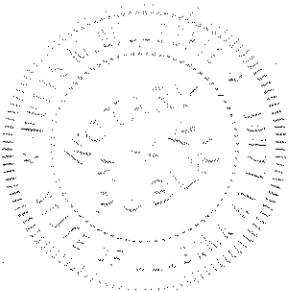
STATE OF ALABAMA)
:
JEFFERSON COUNTY)

Before me, the undersigned authority in and for said County and State, personally appeared Albert Boutwell, who, being by me first duly sworn and made known to me, deposes and says on oath that the matters and things stated in the foregoing petition are true and correct to the best of his knowledge, information and belief.



Albert Boutwell.

Sworn to and subscribed before me on this the 23rd day of March, 1954.


Notary Public.

N O T I C E

TO THE HONORABLE KENNETH COOPER, CIRCUIT SOLICITOR, 28th JUDICIAL CIRCUIT OF ALABAMA:

Please take notice that the foregoing petition for writ of habeas corpus ad testificandum will be presented and submitted by the undersigned to the Honorable Hubert Hall, Circuit Judge, at his office in the City of Bay Minette, on the 24th day of March, 1954, at 8:30 a.m., or as soon thereafter as counsel may be heard, at which time and place you may be present if you so see fit.

This 24th day of March, 1954.

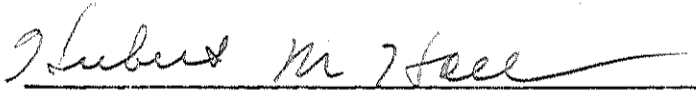


Albert Boutwell,
Attorney for Defendant.

O R D E R

Upon presentation and consideration of the foregoing petition, the same having been by the Court heard, considered and understood, the Court is of the opinion that the same ought to be and it is hereby granted, and the Clerk of this Court is hereby ordered, and directed to issue the writ as prayed for.

DONE and ORDERED in Bay Minette, Alabama, this 24th day of March, 1954.



Circuit Judge,
28th Judicial Circuit of Alabama.

ALABAMA
CIRCUIT COURT OF

ALABAMA

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NO. _____

STATE OF ALABAMA,
Plaintiff,
Vs.
ALBERT SIDNEY DENTON,
Defendant.

PETITION FOR WRIT HABEAS
CORPUS AD TESTIFICANDUM

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

28th JUDICIAL CIRCUIT OF
ALABAMA

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STATE OF ALABAMA,) IN THE CIRCUIT COURT OF BALDWIN COUNTY
Plaintiff,) 28th JUDICIAL CIRCUIT OF ALABAMA
Vs.)
ALBERT SIDNEY DENTON,) NO. _____
Defendant.)

WRIT HABEAS CORPUS AD TESTIFICANDUM

TO THE SHERIFF OF JEFFERSON COUNTY, ALABAMA, OR OTHER PERSON HAVING CUSTODY OF L. L. HEFLIN, OR OTHER LAWFUL OFFICER; AND PERVIA LEE DODD, UNITED STATES MARSHAL, NORTHERN DISTRICT OF ALABAMA, BIRMINGHAM, ALABAMA.

WHEREAS, at Bay Minette, Alabama, on the 24 day of March, 1954, the verified petition for a writ of habeas corpus ad testificandum was presented to the Honorable Hubert Hall, as Circuit Judge of said Circuit Court, and whereas upon consideration of same it was ordered that the prayer thereof be granted;

NOW THEREFORE, you are hereby commanded, that you have and produce the body and person of L. L. Heflin, if he be in your custody, at and before the Circuit Court of the 28th Judicial Circuit of Baldwin County, Alabama, at the place of holding the same, on the 25th day of March, 1954, at 8:30 o'clock in the forenoon, and that the said L. L. Heflin be there safely kept in attendance upon the trial of the cause of the State of Alabama against Albert Sidney Denton, and any adjournment thereof at the present term, from day to day and time to time, in order that the said L. L. Heflin may be and remain in attendance upon said trial as a witness therein as he may be required in the premises; and that, at and after the conclusion of the said cause, that the said L. L. Heflin be returned to the custody of the Sheriff of Jefferson County, Alabama, for re-confinement in the jail of said County, OR TO Pervia Lee Dodd, United States Marshall, Northern District of Alabama, Birmingham, Alabama.

And have you then and there this writ together with your return thereon as to the manner of execution of same, and herein fail not.

WITNESS, the Honorable Hubert Hall, Judge of the 28th Judicial Circuit at Bay Minette, Alabama, this 24 day of March, 1954.

Hubert M. Hall
Circuit Judge,
28th Judicial Circuit of Alabama.

ATTEST:

Audrey M. Hall
CIRCUIT CLERK.

Original

No. _____

STATE OF ALABAMA,

Plaintiff,

Vs.

ALBERT SIDNEY DENTON,

Defendant.

WRIT HABEAS CORPUS AD

TESTIFICANDUM

IN THE CIRCUIT COURT

BALDWIN COUNTY, ALA.

28th JUDICIAL CIRCUIT

OF ALABAMA.

EXHIBIT 24

by leaving a copy of the within with

HOLT A. McDOWELL, Sheriff

Jefferson County, Alabama

By V. L. Lammie, Jr.

1696
SEP 15 1955

THE STATE OF ALABAMA - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

SPECIAL TERM, 1955

1 Div. 613

Albert Sidney Denton,

v.

State of Alabama,

Appeal from Baldwin Circuit Court.

MERRILL, JUSTICE.

Albert Sidney Denton was tried and found guilty in Baldwin County under an indictment for murder in the first degree which charged that he killed Leroy E. Miller by shooting him with a pistol. He was found guilty and sentenced to life imprisonment in the penitentiary and from the judgment imposing that sentence, he appeals.

2.

After the introduction of numerous witnesses, the state rested, and defendant moved to exclude all the evidence on the grounds that the state had failed to establish venue, had failed to show that the court had jurisdiction or had failed to show where the offense occurred. The motion was denied and this action by the trial court is the basis of the argument made in brief by appellant in this court.

The case of Britton v. State, 15 Ala. App. 584, 74 So. 721, is directly in point; there the court said:

"After the prosecution had offered the evidence in chief and rested, the defendant made a motion to exclude the evidence on the ground, among others, that the venue had not been proven. This motion was appropriate and timely and presents the question sought to be raised. —Taylor v. State, *infra* (72), 72 South. 557; Randolph v. State, 100 Ala. 139, 14 South. 792.

"Proof of venue is jurisdictional and without such proof a conviction cannot be sustained. Code 1907, § 7140; Randolph v. State, *supra*. While proof of venue is essential to a conviction, it, like any other fact in the case, may be established by circumstantial evidence; and when the state offers evidence tending to show that the crime was committed within the jurisdiction of the court, the question becomes one for the jury. Founds v. State, *infra*, 223, 73 South. 127; Powell v. State, 5 Ala. App. 75, 59 South. 530.

"And, though it be conceded that no such evidence was offered by the prosecution in chief, and that the motion was erroneously overruled, injury resulting therefrom was averted by the evidence subsequently offered.
* * *."

In citing the Britton case, *supra*, we do not agree with the sentence therein, "Proof of venue is jurisdictional and without such proof a conviction cannot be sustained." Long before the adoption of Circuit Court Rule 35 on June 23, 1913, 175 Ala. XXI,

3.

this court had held that failure to prove venue was not reversible error where no charge based on the sufficiency of the evidence was requested or given. In Rubbard v. State, 72 Ala. 164 (1882), this court speaking through Chief Justice Brickell said:

"* * * If there had been an instruction given or refused, involving an inquiry into the sufficiency of the evidence to authorize a conviction, the omission of evidence of the venue would have compelled a reversal of the judgment of conviction, in obedience to the authorities we have cited. But no such instruction having been given or refused, this court can not now interfere. It does not lie within our province to grant new trials, in cases civil or criminal, because the verdict and judgment may not appear affirmatively to be supported by the evidence."

Also, this court said in Watts v. State, 204 Ala. 372,

86 So. 70 (1920):

"The defendant was convicted of murder in the first degree, and the death penalty was imposed.

"The question of the sufficiency of the evidence showing the venue of the crime to have been in Chambers county was not raised by appropriate instruction, requested or given, to the jury. When no instruction is given or refused, involving an inquiry into the sufficiency of the evidence to authorize a conviction, or as to the proof of venue, the failure of the bill of exceptions to show the venue was proved, while it sets out substantially all the evidence, will not work a reversal of the judgment; no compliance with circuit court rule 35 (175 Ala. xxi) being shown. Woodson v. State, 170 Ala. 87, 54 South. 191; Dentler v. State, 112 Ala. 70, 75, 20 South. 592; Rubbard v. State, 72 Ala. 164, 169; Justice v. State, 99 Ala. 180, 13 South. 656; Johnson v. State, 100 Ala. 55, 14 South. 627; Bowdon v. State, 91 Ala. 61, 8 South. 694; Ex parte Knight, 61 Ala. 482."

State's witness Jones had testified that defendant told him in Jacksonville, Florida, after the remains of deceased's body had been discovered in Mobile County: "You remember my former buddy Hardin? I bumped off one of his friends for him in Bay Minette - near Bay Minette."

4.

Moreover, defense witness Heflin testified on direct that he was present when Miller had been killed at a private airport in Baldwin County and the following is from his cross examination:

"Q. You tell the jury that Lee Miller was shot to death at Oaks Airport in Baldwin County?

"A. Yes, sir."

These facts and other inferences from the state's evidence made the question of venue one for the jury, and bring this case squarely in line with the rule of the Britton case, supra. Furthermore, there was ample evidence from which the jury could find beyond a reasonable doubt that there was a conspiracy to murder Miller and that part if not all of the acts constituting the offense occurred in Baldwin County even though the skeleton and clothing of deceased were found in Mobile County. Section 94, Title 15, Code of 1940 provides:

"When an offense is committed partly in one county and partly in another, or the acts, or effects thereof, constituting, or requisite to the consummation of the offense occur in two or more counties, the jurisdiction is in either county."

The trial judge charged the jury as to the question of venue, including the effect of § 94, supra.

Prior to the taking of testimony, appellant moved for a change of venue. The bases for the motion were five affidavits that due to the unusual amount of newspaper publicity which pictured Denton as a gangster who had been connected with dangerous and

5.

notorious criminals, Denton could not receive a fair and impartial trial in Baldwin County; and that the chief topic of conversation in the county was that Denton would be tried on March 25, 1954. Four newspaper articles were attached to the motion as exhibits.

The following extracts from Campbell v. State, 257 Ala. 322, 58 So2d 623, are dispositive of this question:

"II. There was no error in overruling the motion for change of venue. The defendant on such a motion has the burden of showing to the reasonable satisfaction of the court that a fair and impartial trial cannot be had and an unbiased verdict cannot reasonably be expected. Godau v. State, 179 Ala. 27, 60 So. 908; Patton v. State, 246 Ala. 639, 21 So2d 844.

* * * * *

"* * * In Godau v. State, 179 Ala. 27, 60 So. 908, 910, it was said:

"So long as we have newspapers we may expect to have through them the report of crimes, and it is not to be unexpected that, when a homicide is committed * * * the newspapers of the community, answering the public interest, will furnish the defendant with at least some material upon which to base an application similar to the one under discussion."

* * * * *

"The mere belief of the defendant or of his witnesses that he cannot receive an impartial trial is not sufficient to entitle him to a change of venue. Patton v. State, supra; Lee v. State, 246 Ala. 343, 20 So.2d 471; certiorari denied 325 U. S. 888, 65 S. Ct. 1576, 89 L. Ed. 2002."

The motion for a change of venue was properly denied.

6.

Among the grounds in the motion for a new trial were that the verdict was contrary to the evidence, the weight of the great preponderance of the evidence and that the defendant was entitled to the affirmative charge with hypothesis.

The record in this case unfolds a bizarre story. The deceased, Leroy Miller, a former Wyoming cowboy, operated the Lyn-Mar Fishing Lodge on Bon Secour River near Gulf Shores with his wife. He appeared to be a man of considerable means, owning a yacht, an airplane and several large automobiles. Miller and Nelson K. Hamilton, a Foley photographer, were partners in a gold mining business in Mexico. They were both in Mexico from April to August 1952 and met the defendant Denton there in June. Denton was using the alias of Jimmy Montgomery. He returned to Mexico in July with Lurton L. Heflin and the two spent about ten days there. In early August Miller was shot in the arm and a bone was broken, necessitating the wearing of a cast. On August 15th, around noon, Miller and Hamilton arrived back in Foley. About 5:30 that afternoon and again about 9:00 o'clock that night, Miller received telephone calls at his home. It later developed that Heflin made these calls and made arrangements to pick up Miller later that night. At 6:00 o'clock, Miller's wife, Thompson and his wife and two other couples left to go to the dog races at Pensacola. Sometime after 9:00, Miller's daughter, her husband and Miller's mother and stepfather, saw a large black automobile drive up, heard Miller exchange greetings with the occupants of the car, saw him get in and leave. They never saw him again. It appears that six weeks later Miller's wife

7.

reported his disappearance to a city detective of Mobile and reported it to the Sheriff of Baldwin County four months after August 15th.

On February 17, 1953, one James Tait, while rabbit hunting, discovered a human skeleton by an old field road near St. Elmo in Mobile County. He reported this to the authorities and it was established by means of the clothing, the wired and broken arm bone, the cast and the teeth that the remains were those of Miller. Between the top and bottom layers of his rotting shirt were found a .38 and a .32 caliber pistol bullet.

It was known that Denton and Heflin had been at Gulf Shores on August 15, 1952 and had packed an automobile and left on August 17 (two witnesses so testified at the trial) and they were wanted for questioning concerning Miller's disappearance and death. On July 9, 1953, Denton was arrested in Gadsden and in a brief case in his car were two pistols, — .38 specials. On July 13th he told two FBI Agents and the Sheriff of Baldwin County that he had had the pistols in his possession "since he bought them new or that he knew where they were at all times." In response to a question asked as to whether he was worried about the charge against him in Bay Minette in connection with the death of Miller, he said that he was not worried because he had been informed that the guns were manufactured after the date of the alleged offense. But a ballistics test revealed that one of his pistols fired the .38 bullet that was found between the two layers of Miller's decomposed shirt.

8.

One of the state's witnesses was a federal convict, Cletus Goldman, who had been convicted of "transporting interstate guns" and "armed robbery." A reasonable inference from his testimony is that he, his brother Myron, Denton, Heflin and one Hornbeck were members of the same gang. [At the time of the trial his brother Myron had been slain in a gun battle in Jacksonville, Florida, and Hornbeck was facing a death sentence in that state as the result of the slaying of a policeman in the same gun battle in which Myron Goldman was killed. --Hornbeck v. State, 77 So2d (Fla.) 876.] He testified that he and the other four named were together in Savannah, Georgia, during the first ten days in February 1953 at the home of one Brewer, and that Hornbeck told them, in the presence of Denton, that Miller's wife had Howard Hardin, who operated the Canal Cafe at Gulf Shores, to hire Denton, Heflin and Hornbeck to kill Miller. He testified (quoting Hornbeck):

"He and Denton and Heflin was supposed to have killed Leroy Miller for Howard Hardin and his wife for his insurance and property, and that they had followed him into Mexico and had been paid all expenses all along this route, and following their failure to kill him as they had told Hardin they would do, Hornbeck appeared on the scene and took charge and shortly after that the three of them killed him. Hornbeck reminded Heflin and Denton that all that it took to kill a man was to pull out a pistol and shoot him, and he said prior to that that there was some concern by Heflin as to an associate of Denton's in a car-theft gang in Jacksonville; that he was afraid that Denton would get drunk some night and reveal this murder. * * *."

9.

He said Hornbeck further stated that, "We shot him eleven times" and "we all put lead in him" and that they had to burn the car because there was blood in it from transporting Miller's body, but Denton had received more money than either of the other two for the killing.

Another witness for the state, Thomas C. Jones, a federal prisoner, serving his third term for stealing automobiles, testified that he had known Denton while they were serving a term together in the penitentiary and after they got out Denton was trying to get the witness to go into a venture with him and that in January 1953 in Jacksonville, "Mr. Denton told him that he had previously,— before I got out of the pen—done enough to get himself in the electric chair if he got caught; he said: 'You remember my friend, Howard Hardin—my former partner in Atlanta' and I said 'yes' and he said, 'I took care of one of his friends in Bay Minette and have already bumped him off.'"

Denton did not take the stand in his own defense, but one of his witnesses was Lurton Heflin, a convicted bank robber. Heflin testified that he and Denton saw and talked with Miller in Mexico, that he made the two telephone calls to Miller the night he was killed, calling from Mobile; that he, one Nick Montes and a man named "Alex" picked Miller up in a black Lincoln; that they rode around a while, drank a couple of pints of whiskey, took Miller back near his home about one A. M. with arrangements to meet him at three A. M. at a private airport between Foley and Gulf Shores. He testified that he had \$50,000 of Montes' money to pay for dope that was being flown in, but that Miller told them that the plane

10.

would be carrying \$300,000 worth. "So we came to the agreement to give Lee (Miller) \$50,000, and take the dope and have it weighed and analyzed and give him the balance." At 3 A. M. he, Montes and "Alex" arrived at the airport and met Miller, Nelson Hamilton and three other fellows, one of whom they called "John".

"Then there was a plane coming over and I heard Nelson Hamilton tell Lee to give the signal and they continued to argue and the plane went on by and it circled two times and he said: 'All right, give the signal, give him the signal' and evidently Lee gave the wrong signal, because I heard some shots - two different blasts, about four shots each, and naturally the rest of us ran up there and Hamilton had a gun in his hand and I asked what the deal was and so they - I didn't want to get involved in something like that, and he said that Hamilton said that Lee was trying to mess him around, so I left."

He also testified that Denton was not present at the killing.

It can be seen that the evidence was conflicting but there was ample evidence to support the verdict of the jury. The motion for a new trial was properly overruled.

"In accordance with our duty in criminal cases, we have examined the record for any error, whether pressed upon our attention or not. We have considered additional rulings on evidence, the oral charge and rulings of the court on refused written charges. The record is free from reversible error and is due to be, and is, affirmed." — McCall v. State, 79 So2d 51.

Affirmed.

Livingston, C. J., Lawson and Stakely, JJ., concur.

THE STATE OF ALABAMA--JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 613

ALBERT SIDNEY DENTON

, Appellant

vs.

STATE OF ALABAMA

, Appellee,

From BALDWIN
No. 1696

Circuit Court.

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

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

Witness, J. Render Thomas, Clerk of the Supreme

Court of Alabama, this the 15th day of

September, 19 55

J. Render Thomas
Clerk of the Supreme Court of Alabama

THE SUPREME COURT OF ALABAMA

Special
~~October~~ Term, 19~~54~~-55

1st Div., No. 613

ALBERT SIDNEY DENTON

Appellant,

vs.

STATE OF ALABAMA

Appellee.

From BALDWIN CIRCUIT
NO. 1696- Life Court.

COPY OF OPINION

SKINNER

1690

NO. 1696

(Life)

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

SPECIAL TERM 1954-55
~~October Term, 19XXXX~~

To the CLERK of the CIRCUIT Court,
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 ALBERT SIDNEY DENTON, Appellant, and THE STATE OF ALABAMA, Appellee, wherein by said Court it was considered adversely to said appellant, were brought before our Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered, ordered, adjudged, and decreed by our Supreme Court, on the 15 day of September, 1955, that said JUDGMENT OF CONVICTION AND SENTENCE of said CIRCUIT Court be in all things affirmed, and that it was further considered, ordered, adjudged, and decreed that the appellant, ALBERT SIDNEY DENTON, pay

the costs accruing on said appeal in this Court and in the Court below, for which costs let execution issue.

Witness, J. Render Thomas, Clerk of the Supreme Court of Alabama, at the Judicial Department Building, this the 15 day of September, 19 55
J. Render Thomas
Clerk of the Supreme Court of Alabama.

NO. 1696
(Life)

THE SUPREME COURT OF ALABAMA

SPECIAL TERM 1954-55

~~October Term 1954-55~~

1st Div., No. 613

ALBERT SIDNEY DENTON

Appellant,

vs.

THE STATE OF ALABAMA

Appellee.

From BALDWIN CIRCUIT Court.

CERTIFICATE OF
AFFIRMANCE

The State of Alabama,

Baldwin County.

} Filed

this 17 day of Sept. 1954

W. J. French
Clerk

1696

TELEPHONE
4-0669

ALBERT BOUTWELL
ATTORNEY AT LAW
1919-20 FIRST NATIONAL BANK BUILDING
BIRMINGHAM 3, ALABAMA

October 28, 1954

Miss Alice J. Duck
Circuit Court
Baldwin County
Baymanette, Ala.

Dear Miss Duck:

Re: State of Alabama, vs.
Albert Sidney Denton,
alias Jimmy Montgomery.

I have previously given notice of appeal of the
Supreme Court in the above styled case.

of the record
For the purpose, please let it show that the
defendant also appeals from the action of the court
in over-ruling the defendant's motion for a new trial.

Yours very truly,

Albert Boutwell

filed
11-30-54
Alice Duck
clerk

state is, Albert Sidney
Kent

JURY LIST

Spring Term, March 22nd, 1954

NO.	NAME	OCCUPATION	ADDRESS
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- ~~1~~ Howard Langham, farmer, Loxley
- 2 George Kaiser, farmer, Foley
- 3 Henry Biggs, farmer, Lottie
- ~~4~~ Francis Harrell, farmer, Robertsedale
- ~~5~~ John J. Gallagher, hotel, Fairhope
- ~~6~~ Virgil Christensen, florist, Foley
- 7 R. Howard Vaughn, Jr., farmer, Robertsedale
- ~~8~~ Alfred M. Neumann, banker, Elberta
- ~~9~~ Claud Laurendine, butcher, Foley
- ~~10~~ Ray Survant, linesman, Foley
- ~~11~~ Charles W. Barnhill, farmer, Robertsedale
- ~~12~~ John M. Moreland, nursery business, Daphne
- ~~13~~ R. H. Young, merchant, Fairhope
- ~~14~~ Chester A. Stapleton, merchant, Bay Minette
- ~~15~~ D. Z. Nix, carpenter, Robertsedale
- ~~16~~ Sims Parker, farmer, Bon Secour
- ~~17~~ W. T. Canaan, merchant, Loxley
- ~~18~~ Pink Creamer, barber, Fairhope
- ~~19~~ Francis L. Irwin, farmer, Foley
- ~~20~~ Thomas W. Walters, farmer, Foley
- ~~21~~ Joe Hanik, farmer, Silverhill
- 22 Wallace Parker, mill, Stockton
- ~~23~~ Norman A. Racine, oil dealer, Robertsedale
- ~~24~~ J. R. Wilson, chev. dealer, Bay Minette
- ~~25~~ J. Ernest Duck, mechanic, Bay Minette
- ~~26~~ Cecil Russel, filling station, Robertsedale
- ~~27~~ Vernon W. Gebhart, defense, Foley
- ~~28~~ Cecil Pittman, real estate, Fairhope
- ~~29~~ Jessie Andrew, telephone oper, Daphne
- ~~30~~ Forest E. Warren, farmer & teacher, Fairhope
- ~~31~~ Henry Pipkin, woodsman, Bay Minette
- ~~32~~ Harold Gilbert, mechanic, Bay Minette
- ~~33~~ P. M. Leatherwood, clerk, Daphne

(34) John Beverly, laborer, Robertsdale

35 Roy Roberson, laborer, Foley

36 Oscar Rich, bookkeeper, Magnolia Springs

37 Bud Eady, farmer, Rabon

38 S. Barner, contractor, Elleanor

39 Victor Muzink, farmer, Silverhill

40 Bennie McComb, farmer, Elberta

(41) C. T. Powell, farmer, Bay Minette

42 Emanuel Davidson, salesman, Bay Minette

43 Burford White, clerk, Bay Minette

44 Heyden J. Lewis, clerk, Fairhope

45 Hubert Lee, laborer, Robertsdale

46 Jennings Thomas, farmer, Foley

47 Eugene Passmore, Brookley Field, Summerdale

48 J. Arthur Corte, farmer, Belforest

49 John Weiss, farmer, Foley

50 Leonard Havel, farmer, Fairhope

51 Warren D. Cause Jr, mfg, Stockton

52 J. W. Clark, Jr, merchant, Robertsdale

(53) Noah W. Dean, Farmer, Little River

(54) A. J. Helton, Carpenter, Stockton

X 55 Conrad Johnson, Filling Sta. Opr., Fairhope

56 L. W. Neese, Merchant, Robertsdale

57 James Horn, Railroad, Bay Minette

58 Hobson Childress, Farmer, Robertsdale

59 Joseph Dvorak Jr, Clerk, Silverhill

X 60 William Gilbert, Farmer, Fairhope

61 Arthur Weaver, Salesman, Bay Minette

(62) Jack R. Downer, Farmer, Clear Springs

(63) Harry C. Bill Jr., Farmer Loxley

64 Andy Cotton, Painter, Fairhope

65 Colin Dukes, Restaurant, Foley

(66) Dewey Beech, Farmer, Bon Secour

(67) Herman Krueger, Farmer, Foley

68 W. M. Bagby, Painter, Fairhope

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1696

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

Attorneys	Case	Charge
K. Cooper	THE STATE OF ALABAMA,	
No. 4959	Vs.	
Albert Boutwell	Albert Sidney Denton	Murder

	Disposition of Case	Fees	Amount
	Affidavit made and Warrant Issued to <i>Jaylan Wilkins</i>	Judge's Fees	
	Returnable <i>Grand Jury</i>	Warrant at 50c, Affidavit at 25c	75
	Witness—for State <i>Dr. Nelson Gubbs, Geo. Crawford</i>	Bond at 50c, Sci Fa. at 50c	
	<i>Mrs Pearl Kingery, Mrs W. E. Kingery</i>	Witnesses' Recognizances at 25c	
	<i>W. E. Kingery, Howard Liden,</i>	13 Subpoenas or notice at 25c	3.25
	<i>May Liden, Max Liden,</i>	Continuance at 25c	
	<i>S. O. Stuart, Jaylan Wilkins</i>	Trial of Misdemeanor at \$1.00	
	<i>Sonny Pryce, Mrs Grace</i>	Mittimus at 25c	25
	<i>Kingery, Pearl Miller</i>	Judgment on Forfeited Bond at 25c	
		Taking Bond, etc., on Appeal at \$1.00	
		Execution of costs at 25c	
		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 \$4.00, Bond \$1.00, Sci Fa. 50c	4.00
		Guard \$2.00, Finger Printing 10c	2.10
		13 Subpoenas at 50c, Mileage	6.50
		Witness Fees	55.00
		(2) Subpoenas at 50c	2.00
		Re-committed to jail	2.00
		Days at 50c	
		11 @ 1 Days at 50c	6.50
		Days at 50c	
		Days at 50c	
		Days at 50c	
		Defendant's Costs	
		Witnesses' Recognizance at 25c	
		2 Subpoenas at 50c	1.00
		Executing Subpoenas	

P. J. Laid
Justice of Peace.

1696H

JUN 23 1970

THE STATE OF ALABAMA --- JUDICIAL DEPARTMENT

THE ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 1969-70

1 Div. 65

Albert Sidney Denton

v.

State

Appeal from Baldwin Circuit Court

PRICE, PRESIDING JUDGE

Albert Sidney Denton was convicted in Baldwin County, Alabama, on March 26, 1954, for the offense of murder in the first degree. He was sentenced to life imprisonment in the penitentiary.

2.

On appeal to the Supreme Court Denton's conviction was affirmed. Denton v. State, 263 Ala. 311, 82 So. 2d 406.

A petition for writ of error coram nobis was filed in the Circuit Court of Baldwin County, Alabama, on August 14, 1969. A hearing was held on said petition and was denied by the court on November 11, 1969. Denton appeals.

The attorneys representing Denton in this proceeding are not the attorneys that represented him in the trial court on the murder charge.

Appellant's contentions will be considered in the order in which they appear in brief.

The first contention is that prior to questioning by law enforcement officers petitioner was not advised of his right to remain silent under Miranda v. Arizona, 384 U. S. 436, 86 S. Ct. 1602, 16 L. Ed 694, 10 ALR 3rd 974.

The trial in this case was held in March of 1954. Miranda, supra, applies to trials begun after June 13, 1966. Johnson v. New Jersey, 384 U. S. 719, 86 S. Ct. 1772, 16 L. Ed. 2d 882; Harris v. State, 280 Ala. 468, 195 So. 2d 521; Mathis v. State, 280 Ala. 16, 189 So. 2d 564; Clark v. State, 280 Ala. 493, 195 So. 2d 786.

There was testimony at the original trial that two pistols were found in Denton's automobile at the time of his arrest in Gadsden, Alabama. Three days later he told FBI agents that he had had the guns in his possession since he bought them new, or that he knew where they were at all times. When asked whether he was worried about the charge against him in Bay Minette, he answered that he was not worried because his attorney had informed him that the guns were manufactured after the date of the alleged offense. We consider this as

*
3.
an exculpatory statement, rather than a confession.

Appellant's second contention is that the question of the voluntariness of the alleged confession was not determined outside the presence of the jury, under the rule laid down in the case of Jackson v. Denno, 378 U. S. 368, 84 S. Ct. 1774, 12 L. Ed. 2d 908.

There is no showing that a request was made for the question of the voluntariness of the alleged confession to be determined outside the presence of the jury. Duncan v. State, 278 Ala. 145, 176 So. 2d 840.

Appellant's third contention is that Section 57, Title 30, Code of Alabama, 1940, providing for challenge for cause by the state of a prospective juror who has a fixed opinion against capital punishment has been held unconstitutional by the Supreme Court of the United States in the case of Witherspoon v. Illinois, 391 U. S. 510, 88 S. Ct. 1770, 20 L. Ed 2d 776.

Bumper v. North Carolina, 391 U. S. 543, 88 S. Ct. 1788, 20 L. Ed. 2d 797, held that the rule laid down in Witherspoon, supra, does not apply where the death penalty is not imposed. See also Seals v. State, 282 Ala. 586, 213 So. 2d 646, Russell v. State, Ala. Ct. Cr. App. Ms, 6 Div. 7. Moreover, there is no showing that any juror was challenged under the authority of Section 57, Title 30, Code, supra.

Appellant's fourth contention that the state failed to prove venue, was considered and decided by the Supreme Court on the original appeal from the judgment of conviction. Denton v. State, supra.

We find no reversible error in the record. The judgment is affirmed.

AFFIRMED.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE COURT OF CRIMINAL APPEALS OF ALABAMA

1st Div., No. 65

Albert Sidney Denton

Appellant.....,

v.

The State

Appellee.....,

From Baldwin

Circuit Court

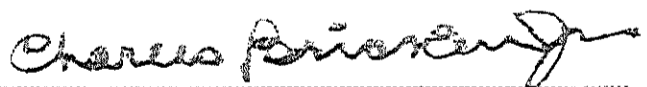
The State of Alabama, }
City and County of Montgomery. }

I, Charles Bricken, Jr., Clerk of the Court of Criminal Appeals of Alabama, do hereby certify that the foregoing pages numbered from one to 3 inclusive, contain a full, true and correct copy of the opinion of said Court of Criminal 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 Criminal Appeals of Alabama, at the Capitol

this the 23rd day of June, 19 70



Clerk of the Court of Criminal
Appeals of Alabama.

THE COURT OF CRIMINAL APPEALS
OF ALABAMA

1st Div., No. 65

Albert Sidney Denton

Appellant

vs.

The State

Appellee

From Baldwin Circuit Court.

COPY OF OPINION

BROWN PRINTING CO., MONTGOMERY

1696H

ALBERT SIDNEY DENTON,	X	IN THE CIRCUIT COURT OF
Petitioner	X	
Vs.	X	BALDWIN COUNTY, ALABAMA,
THE STATE OF ALABAMA,	X	
Respondent	X	CASE NO. _____

PETITION FOR LEAVE TO PROCEED IN FORMA
PAUPERIS FROM A JUDGMENT DENYING
PETITIONER'S REQUEST FOR WRIT
OF ERROR CORAM NOBIS

The Petitioner, Albert Sidney Denton, petitions to the Circuit Court of Baldwin County, Alabama, duly verified according to law, for leave to proceed in forma pauperis so that Petitioner may be appropriately provided with a Transcript of the Record of the proceedings recently had before the Circuit Court of Baldwin County in connection with the hearing had on the Petition for Writ of Error Coram Nobis on November 4, 1969, before this Court, and including preparation of the Transcript of the Record by the Clerk of the Circuit Court, and including the waiver of the requirement for security for costs to be posted by Petitioner in an appeal and Petitioner alleges as grounds for his request to proceed forma pauperis:

1. That the Petitioner, Albert Sidney Denton, was adjudged guilty of murder in the first degree on March 25, 1954, in this Court after a trial by jury;
2. That an appeal was had to the Supreme Court of Alabama on September 15, 1955, 263 Ala. 311, 82 So.2d 406, which affirmed the Petitioner's conviction;
3. That application for re-hearing was made by Petitioner on June 13, 1969, before the Supreme Court of Alabama and the same was denied on July 10, 1969, by said Supreme Court of Alabama;
4. That Petitioner filed his Petition for Writ of Error Coram Nobis before the Circuit Court of Baldwin County, Alabama, and the same was duly heard in open court on to-wit, November 4, 1969, wherein the trial court forthwith denied the Petition and all requests and prayers for relief contained therein, such Order being made by the Honorable Telfair J. Mashburn, Circuit Judge;

5. That Petitioner was convicted as above indicated of the crime of murder in the first degree and sentenced to life imprisonment;

6. That Petitioner desires to appeal this cause and is without sufficient funds to pay for the preparation of the Transcript of the Evidence and the Transcript of the Record and has no reasonable way to obtain the funds to pay the same, nor has he funds nor does he expect to have funds to pay said expenses, nor to pay the court reporter his fees for transcribing the evidence, nor does he have funds to pay for any other proceedings had at the trial of this cause, nor the fees of the court for preparing the record. Petitioner is without income and has been without income for some fifteen years, has no property, real or personal, nor does he anticipate that he will ever possess any assets in the future.

WHEREFORE, Petitioner, Albert Sidney Denton, asks this Court to enter an Order to allow him to proceed in forma pauperis and that this Court will further enter an Order commanding the Court Reporter, the Clerk of the Circuit Court, and any other court officials to prepare the Transcript of the Evidence and the Transcript of the Record and file the same according to law with the Supreme Court of Alabama and find as a matter of law that such acts shall be done without charge to Petitioner for the reason that he is indigent and without funds to pay for the same and that said Clerk and Court Reporter shall be paid according to law otherwise prescribed.

Petitioner asks this Court to enter all Orders appropriate to allow him to make an effective appeal in forma pauperis as above-stated.


ALBERT SIDNEY DENTON, Petitioner

STATE OF ALABAMA X
MONTGOMERY COUNTY X

Before me, the undersigned, a Notary Public in and for the State of Alabama at Large, personally appeared the Petitioner, Albert Sidney Denton, who after being duly sworn by me, deposes

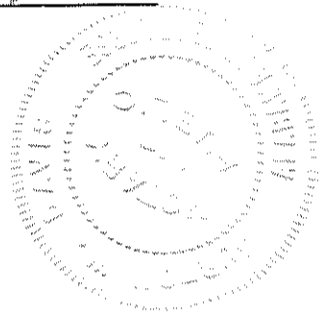
and says that he has read the contents of the foregoing Petition and after examining the same, states that the matters contained therein are true and correct.

Done this 10 day of November, 1969.

Albert Sidney Denton
ALBERT SIDNEY DENTON, Affiant

SWORN TO and SUBSCRIBED before me this 10 day of November, 1969.

Barton W. Davis
NOTARY PUBLIC



FILED

NOV 10 1969

ALICE J. DUCK CLERK
REGISTER

11-17-69 The Clerk and Reporter are hereby ordered to prepare and furnish a free transcript for this Defendant.

Jeffrey J. Madlener
Judge

1696A

ALBERT SIDNEY DENTON,	X	IN THE CIRCUIT COURT OF
Petitioner	X	
Vs.	X	BALDWIN COUNTY, ALABAMA,
THE STATE OF ALABAMA,	X	
Respondent	X	CASE NO. _____

NOTICE OF APPEAL

Comes now the Petitioner, Albert Sidney Denton, by and through his Attorneys, and gives this his notice of appeal of the judgment or decree of the Circuit Court of Baldwin County, Alabama, entered in the above-styled cause on the 4th day of November, 1969.

Dated this 7 day of November, 1969.

Hartwell Davis
HARTWELL DAVIS, Attorney for the
Petitioner, Albert Sidney Denton

J. Paul Lowery
J. PAUL LOWERY, Attorney for the
Petitioner, Albert Sidney Denton

CERTIFICATE OF SERVICE

I, J. Paul Lowery, as Attorney of Record for the Petitioner, Albert Sidney Denton, do certify and affirm as Attorney of Record for Petitioner, that I mailed a copy of the foregoing Notice of Appeal, postage prepaid, to the Honorable James Hendrix, District Attorney for the Circuit Court of Baldwin County, Alabama, at the Courthouse, Bay Minette, Alabama, his last known address.

Done this 7th day of November, 1969.

J. Paul Lowery
J. PAUL LOWERY, Attorney for the
Petitioner, Albert Sidney Denton

FILED

NOV 10 1969

ALICE J. DUCK CLERK
REGISTER

ALBERT SIDNEY DENTON,	X	IN THE CIRCUIT COURT OF
Petitioner	X	
Vs.	X	BALDWIN COUNTY, ALABAMA,
THE STATE OF ALABAMA,	X	
Respondent	X	CASE NO. _____

NOTICE OF APPEAL

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Dated this 7 day of November, 1969.

Hartwell Davis
HARTWELL DAVIS, Attorney for the
Petitioner, Albert Sidney Denton

J. Paul Lowery
J. PAUL LOWERY, Attorney for the
Petitioner, Albert Sidney Denton

CERTIFICATE OF SERVICE

I, J. Paul Lowery, as Attorney of Record for the Petitioner, Albert Sidney Denton, do certify and affirm as Attorney of Record for Petitioner, that I mailed a copy of the foregoing Notice of Appeal, postage prepaid, to the Honorable James Hendrix, District Attorney for the Circuit Court of Baldwin County, Alabama, at the Courthouse, Bay Minette, Alabama, his last known address.

Done this 7 day of November, 1969.

J. Paul Lowery
J. PAUL LOWERY, Attorney for the
Petitioner, Albert Sidney Denton

FILED

NOV 10 1969

ALICE J. DUCK CLERK
REGISTER

1696A

ALBERT SIDNEY DENTON,	X	IN THE CIRCUIT COURT OF
Petitioner	X	
Vs.	X	BALDWIN COUNTY, ALABAMA.
THE STATE OF ALABAMA,	X	
Respondent	X	CASE NO. _____

AFFIDAVIT

STATE OF ALABAMA
COUNTY OF _____

Before me, the undersigned, a Notary Public, in and for the State of Alabama at Large, personally appeared the Petitioner, Albert Sidney Denton, who after being duly sworn by me, deposes and says:

"I have been in the Kilby Penitentiary since 1954 serving a sentence for my conviction by the Circuit Court of Baldwin County, Alabama, of murder in the first degree; and consequently, I have been unemployed since that time until the present date of this affidavit.

"I have no assets, real or personal; I own no property nor do I anticipate owning any property, real or personal, in the future nor do I expect any income from any source whatsoever. I do not have control over any money, real estate, or other personal assets; and I have no money in my possession at this tie.

"I am simply unable to pay my attorney's fee; however I am advised that relatives have paid them some fee for their work voluntarily from their own separate assets or funds. I cannot pay for the Transcript of the Record to be prepared in this appeal, nor can I pay for the bond for security of costs.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 10 day of November, 1969.

Albert Sidney Denton
ALBERT SIDNEY DENTON, Affiant

SWORN TO and SUBSCRIBED before me this the 10 day of November, 1969.

Burton W. Davis
NOTARY PUBLIC

FILED

NOV 10 1969

ALICE J. DUCK CLERK
REGISTER



1696A

ALBERT SIDNEY DENTON,	X	IN THE CIRCUIT COURT OF
Petitioner	X	
Vs.	X	BALDWIN COUNTY, ALABAMA.
THE STATE OF ALABAMA,	X	
Respondent	X	CASE NO. <u>1696</u>

PETITION FOR WRIT OF
ERROR CORAM NOBIS

Petitioner, Albert Sidney Denton, by and through his attorneys, petitions the Circuit Court of Baldwin County, Alabama, for Writ of Error Coram Nobis in connection with his conviction for murder in the first degree on the 26th day of March, 1954. Petitioner was tried for murder in the first degree in this Court for the slaying of one Leroy E. Miller, who died a violent death on August 16, 1952, in Baldwin County, Alabama. Petitioner files his Petition for Writ of Error Coram Nobis in the Circuit Court as aforesaid.

Petitioner states to Your Honor that:

1. The conviction of him for the offense of murder in the first degree, above mentioned, was appealed to the Supreme Court of Alabama and affirmed, with opinion by Justice Merrill on September 15, 1955, which case is reported in 263 Ala. 311, 82 So.2d 406.
2. Application for re-hearing was made by Petitioner on June 13, 1969, and the State filed a Motion to dismiss the application which was granted on July 10, 1969, by the Supreme Court of Alabama.
3. Substantial constitutional rights afforded the Petitioner, Albert Sidney Denton, under the Constitutions of the United States and of the State of Alabama were denied him by this Court. Recent enlightenment from Court decisions on the availability of those federal constitutional rights have been denied the Petitioner in connection with his trial and conviction above described:

A. Admission of certain "confessions" allegedly made by the Petitioner to certain officers of the law who were investigating the homicide of Leroy E. Miller were erroneously and unconstitutionally admitted by the trial court in violation of the Petitioner's constitutional rights available to him under the Fifth and Fourteenth Amend-

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ments. Particularly, the rights available to Petitioner not to be required to testify against himself, and complete instruction in that regard as required in Miranda Vs. Arizona, 384 U.S. 436, 16 L.Ed.2d 694, 86 Sup.Ct. 1602; Escobedo Vs. Illinois, 378 U.S. 478, 12 L.Ed.2d 977, 84 Sup.Ct. 1758. Improper predicate was laid by the District Attorney in prosecuting on direct examination of City Detective W. E. Gambia, Chief of Police Fay Bowman of Gadsden, Alabama, and F.B.I. agent, Henry Snow, who also investigated the case. (Transcript of the Record, 79 and 80).

B. The sole predicate laid by the State of Alabama in examining the above officers of the law regarding the "confessions" of the Petitioner was whether or not any reward was offered to him to induce the Petitioner to give a statement. No other questions were asked and a proper objection was imposed by defense counsel for Petitioner on the grounds that an improper predicate was laid. That objection was overruled.

4. The jury was organized and constituted in violation of the constitutional rights afforded Petitioner to a fair trial under the United States Constitution as spelled out in Witherspoon Vs. The State of Illinois, 391 U.S. 510, 3 C.R.L. 3107, June 3, 1968; Fay Vs. New York, 332 U.S. 261; Tumey Vs. Ohio, 73 U.S. 510. Specifically, the jurors were qualified on questions by the trial court concerning their belief in capital punishment or not. Jurors who did not profess a belief in capital punishment were excluded by the trial court contrary to the constitutional requirements of the above cases cited.

5. The jury, for the same reason, was organized to convict the Petitioner in violation of the United States Constitutional rights contained in the above cases.

6. The State was not required to prove venue of the homicide. This principle was affirmed by the Supreme Court of Alabama in its opinion affirming Petitioner's conviction, wherein the rule of law in Britton Vs. The State, 15 Ala.App. 584, 74So.2d 721, was expressly overruled, such principle was:

"Proof of venue is jurisdictional and without such proof a conviction cannot be sustained."

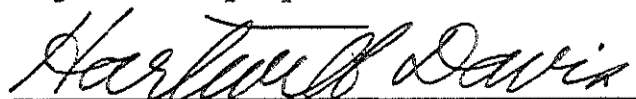
By overruling that principle of law and by affirming the Petitioner's appeal, the rights afforded him under the Constitution of the United States under the Sixth Amendment, and under Section Six of Article I of the Constitution of Alabama of 1901, were clearly precluded and denied the Petitioner by reason thereof.

Questions of venue in criminal cases are not merely matters of formal legal procedure. They raise deep issues of public policy in the light of which legislation must be construed. The burden of proof rests upon the prosecution to prove venue in a criminal case, and if it is not sustained, then the Defendant is entitled to be acquitted and the conviction should be reversed. U. S. Vs. Johnson, 323 U.S. 273, 65 Sup.Ct. 249, 89 L.Ed. 236.

7. Petitioner commenced to serving his sentence and has done so since being committed to the state penitentiary located at Kilby, Alabama, in Montgomery, Alabama. As above stated, recent decisions of the Supreme Court of the United States have further enlightened Petitioner on the extent of his federal constitutional rights, and because of the foregoing violations, Petitioner avers that his conviction ought to be reversed, and a new trial ordered or the cause rendered by the trial court as it might properly determine.

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a copy of the foregoing Petition will be served upon the Honorable James Hendrix, District Attorney of the Circuit Court of Baldwin County, Alabama, at his office in Bay Minette, Alabama, together with an appropriate order or summons to appear and answer judgment pertaining to the matters that are contained therein and that upon a final determination of this cause, Your Honor will grant Petitioner, Albert Sidney Denton, the privileges of proceeding by way of Petition for Writ of Error Coram Nobis in the Circuit Court of Baldwin County, Alabama, for the grounds above stated.

Petitioner further asks for such other, further, and different relief as unto Your Honor may deem just and proper.


HARTWELL DAVIS, Attorney for Petitioner, Albert Sidney Denton

J. Paul Lowery
J. PAUL LOWERY, Attorney for Petitioner, Albert Sidney Denton

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of the foregoing PETITION FOR WRIT OF ERROR CORAM NOBIS to the Honorable MacDonald Gallion, Attorney General, State of Alabama, at his office in Montgomery, Alabama, in the United States mail, postage prepaid this the 13th day of August, 1969.

J. Paul Lowery
J. PAUL LOWERY

FILED

AUG 14 1969

ALICE J. DUCK CLERK
REGISTER

Service Accepted
James C. Hendrix

TELEPHONE
269-1286
AREA CODE 205

HARTWELL DAVIS
ATTORNEY AT LAW
SUITE 609-11
FIRST NATIONAL BANK BUILDING
MONTGOMERY, ALABAMA

August 13, 1969

Mrs. Alice J. Duck
Clerk of the Circuit Court
Baldwin County
Bay Minette, Alabama

Dear Mrs. Duck:

RE: Albert Sidney Denton, Petitioner vs
The State of Alabama

Please file the enclosed petition for Writ of Error Coram Nobis. Bring it to the attention of the presiding judge of your circuit and have the enclosed copy of same served on Hon. James Hendrix, District Attorney of the Circuit Court of Baldwin County.

Please keep Mr. J. Paul Lowery, Attorney at Law, Bell Building, Montgomery, Alabama, 36104, and me informed of any settings or other actions of the Court in regard to this petition.

Yours very truly,

Hartwell Davis

HD:jma

Enclosures

1696A

Albert Sydney Denton
Petitioner
vs
State of Alabama
Defendant

In The Circuit
Court of Baldwin
County, Alabama

AT Law

Amendment to Petition
For writ of Error Coram
Vocice

comes now the Petitioner Albert Sydney Denton
and amends his petition heretofore filed in this cause
so that the following will be added to said petition:

(1) By adding the word "allegedly" immediately after
the words "August 16, 1952" in the first paragraph of
said petition.

(2) By adding the following acknowledgment at the end
of said petition as follows:

Before me _____, a Notary Public in and
for the state of Alabama and after being duly sworn deposes
and says that the matters contained in the Petition for writ
of Error Coram Vocice as amended are true and correct.

Albert Sydney Denton
Affiant

Sworn to this 4 day
of November, 1969.

Kenneth Cooper
Notary Public
State At Large,
State of Alabama

Albert Sydney Denton
Petitioner Albert Sydney
Denton

Filed: November 4, 1969.

Judge of said court
Judge

CERTIFICATE OF APPEAL. (Criminal Cases.)

No. 1696-A

The State of Alabama,

VS.

ALBERT SIDNEY DENTON,
Petitioner

The State of Alabama,

Baldwin County, The Circuit Court of
Baldwin County.

I, Alice 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 4th day of November 1969 , ^{wherein} ~~and~~ the
Petitioner's writ of error coram nobis, was denied.
~~defendant convicted by a Jury of the offence of~~
~~and that on the~~ day of 19 ,
~~said defendant was sentenced to a term of~~
~~which said sentence was suspended~~
~~pending an appeal to the~~ Court of Alabama.

I further certify that on this the 10th day of November
1969 , 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 10th
day of November 1969 .

Alice J. Duck
Clerk of Circuit Court of
Baldwin County, Alabama.

1696A

appeal

1696A
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 4th
November, 1969 ~~Monday~~ ~~19~~, in a cer-
tain cause in said Court wherein ~~State of Alabama~~ Albert Sidney Denton, Petitioner
~~Plaintiff~~ and State of Alabama, Respondent
~~Defendant~~ a judgement was rendered against said
Petitioner
to reverse which Judgment the said Petitioner
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 , 19 next, and ~~the necessary~~ no bond
having been given by the said Albert Sidney Denton, Petitioner

Now, You Are Hereby Commanded, without delay, to cite the said State of Alabama
or James A. Hendrix, District
attorney, to appear at the next Term of our
Court of Appeals
said Court, to defend against the said Appeal, if they think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 10th
day of November, A. D., 1969.

Attest:

Alice J. Duck, Clerk.

I, James A. Hendrix, District Attorney, hereby accept service of a copy of
the foregoing this 10 day of November, 1969.

James A. Hendrix
District Attorney

107077
Albert Sidney Denton
Petitioner

IN THE CIRCUIT COURT OF

VS:

BALDWIN COUNTY, ALABAMA

STATE OF ALABAMA,

CASE NO. 1696-A

Respondent.

This cause was heard by the Court on the motion of the Petitioner for
a Writ of Error Coram Nobis on the 4th day of November, 1969, and

said petition was Denied. And the Defendant gave notice of Appeal; the Court
was then ordered to prepare and certify the transcript of said appeal.

And the Court having duly investigated the petitioner's ability to
pay for the cost of said proceeding and is convinced that the petitioner
is an indigent defendant as defined by the laws of Alabama.

It is, therefore, Ordered, Adjudged and Decreed by the Court that the
fees due the Circuit Clerk of Baldwin County, Alabama, for her services
in said matter in the amount of \$30.00 to be paid to Alice J. Duck, Clerk
of said Court as provided by law, provisions of Title 15, Section 380 (20).

Dated this 11th day of December, 1969

Julius J. Washburn
Circuit Judge of
Baldwin County, Alabama.

1640H

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE COURT OF CRIMINAL APPEALS OF ALABAMA

October Term 19 69-70

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

Albert Sidney Denton, Appellant,

and

The State, Appellee,

wherein by said Court, it was considered adversely to said appellant, were brought before our Court of Criminal 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 Criminal Appeals, on the 23rd day of June 19 70, that said judgment of said Circuit Court be in all things affirmed,

~~and that it was further considered that the appellant~~

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

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

of Criminal Appeals of Alabama, at the Capitol,
this the 23rd day of June, 19 70


Clerk, Court of Criminal Appeals of Alabama.

1696
THE COURT OF CRIMINAL APPEALS
OF ALABAMA

October Term, 1969-70

1st . Div., No. 65

Albert Sidney Denton

Appellant,

vs.

The State

Appellee.

From Baldwin Circuit Court.

CERTIFICATE OF AFFIRMANCE.

THE STATE OF ALABAMA,

FILED County. }

Filed this JUN 25 1970 day of

19
ALICE J. DUCK CLERK
REGISTER