

Tofferson County Circuit Court
Case Files - Criminal

Box

9 Folder 36

November 1857

State

vs

Knoopp, Mary, alias
Shier, Mary

Murder

Shot John Shier with a gun; convicted
of manslaughter and sentenced to 3
years, but pardoned by governor

The State of Missouri } Charge of Murder
Mary Sher } of John Sher

Testimony of the
witnesses for the State
taken before William Ferry & John W. Hughes
two justices of the peace in and for the county
of Jefferson & State of Missouri

The testimony of Wiley Glover being
 now says that Mary Shue told him
 that if her husband came into her
 yard that she would shoot him
 said something about a gun
 said her husband had talked about
 and slandered her and if he ever
 came back, ^{inside of her pailing,} she would shoot him

Attest

Wiley & Thomas
Horn

William Lenny
G. W. Myers

John Silvanus being duly sworn
says about the 15th Novmber 1857 I was
at my coal pit and heard a noise
in direction of Mary Shes house went
there and found a man hunt who
I ascertained to be Mr Shave

I asked him what was the matter he
said he was shot I asked him who shot
him he said the old woman his wife
had done it I afterwards saw the same
~~man~~ dead Mrs Shae told me
that she had told Shae if he did not
stay away she would shoot ^{her} that he
came then and attempted two or three
times to open the ~~that~~-gate. that he
grabbed the gun through the gate &
shot himself Robert P. H. H. H. H.

Louis Sanders being sworn says that
Mrs Shae told him if John Shae
did quit coming there & pestering
her she would shoot him

William Terry
J. P. H. H. H.

^{his}
Louis Sanders
sworn

Statement of the defendant
says that on last Sunday John Shae
came to her house & she told him
not to come inside the gate or she
would hurt him says she took the

gun to scare him that she had
no intention to shoot him that he
got hold of the muzzle of the gun
him on one side of the gate & she on
the other and in the scuffle the gun
was discharged and shot him in the
thigh

Witness for the defence

Know all men by these Presents, that I Mary Knapp
alias Mary Shirer as principal and William Butler
& James A Beal as securities acknowledge our
selves each to owe the State of Missouri the full
and just sum of One thousand dollars to be levied
of our respective goods and chattels lands and
tenements. Yet upon condition, that if the said
Mary Knapp alias Mary Shirer, shall be and
personally appear before the Circuit Court for the
County of Jefferson on the first day of the next
term thereof to be begun and held on the fourth
Monday of May next. to answer an indictment
preferred against her by the Grand Inquest. of
said County for Murder and not depart
said Court without leave, then this recognizance
to be void else of full force.

In witness whereof we have hereunto set our hands
and seals this Twenty third day of January
A D Eighteen Hundred and fifty Eight

Attest

Elias O Honey

Mary ^{her} Shirer
in ant

ES

William Butler

ES

J A Beal

ES

Taken and approved

by me. January 23^d 1857

Elias O Honey

Clerk. Cir. Court

Wm. W. Phelps & Co. Secs
of the
State of Illinois

Subd Jan'y 23^d 1837
Wm. W. Phelps
Clerk

State of Missouri } In the Circuit Court
County of Jefferson } of Jefferson County, Missouri
- term Term No. 1857

The Grand jurors of the State of Missouri now here in Court duly empanelled, sworn and charged to inquire within and for the body of the County of Jefferson, upon their oaths present that Mary Knorpp alias Mary Shire late of the County of Jefferson aforesaid on the fifteenth day of November one thousand eight hundred and fifty seven, with force and arm at the County of Jefferson aforesaid, in and upon the body of one John Shier in the peace of the State of Missouri; then and then being feloniously, wilfully, deliberately, premeditatedly and of her malice aforesaid did make an assault; and that the said Mary, a certain gun, then and there charged with gunpowder and one leaden bullet, which said ~~gun~~ she the said Mary in both her hands then and then had and held, then and then feloniously, wilfully, deliberately, premeditatedly and of her malice aforesaid did discharge and shot off, to wit against and upon the said John Shier; and that the said Mary Knorpp alias Mary Shier, with the leaden bullet of aforesaid, out of the gun of aforesaid, then and there, by force of the gunpowder of aforesaid, by the said Mary discharged and shot off as of aforesaid, then and there feloniously, wilfully, deliberately, premeditatedly and of her malice aforesaid did strike, penetrate and wound him the said John Shier, in and upon the

right leg near the ~~thigh~~^{right hip} of him the said John
Sherin, giving to him the said John Sherin
then and there, with the leaden bullet aforesaid,
so as of aforesaid discharged and shot
out of the gun, aforesaid, by the said Mary
in and upon the right leg and near the ~~thigh~~^{right hip} of
him the said John Sherin, one mortal wound
of the depth of ten inches and the breadth
of half an inch, of which said mortal wound
the said John Sherin from the said fifteenth
day of November in the year aforesaid, until
the eighteenth day of November in the
year aforesaid, at the County aforesaid
did languish and languishing did live -
on which said eighteenth day of November
in the year aforesaid, at the County aforesaid,
the said John Sherin, of the said mortal
wound died; and so the jurors aforesaid
upon their oath aforesaid, do say.
That the said Mary, the said John Sherin
in manner and by the means aforesaid,
feloniously, wilfully, deliberately premed-
itatedly and of her malice aforethought did
kill and murder.

Against the peace and dignity
of the State.

D. D. Gale Circuit Atty.

State

(Prints)

by

Mary Knapp

alias Mary Davis

Widow of

Amos

A True Bill

Geo. W. M. Smith

by
proctor

Writings

John Smith

Senior, Danvers

Widow, Danvers

John Knapp

Adel. Dec. 27th 1857

Edw. J. Hensley, att.

Chad

"

COUNTY OF JEFFERSON, SCT.,
The State of Missouri,

To the Sheriff of the County of Jefferson—GREETING:

We Command you to take *Mary Knapp, alias Mary Shier* if she be found in your County, and ~~her~~ safely keep, so that you have his body before the Honorable Judge of our Circuit Court, *forthwith* at Hillsboro' within and for the County of Jefferson, then and there to answer unto an Indictment found against him by the Grand Inquest for the body of the County of Jefferson, for: *Murder* contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the State.

Elias J. Honey
WITNESS, ~~THEO. C. FLETCHER~~, Clerk of our said Circuit Court with the seal thereof hereto affixed: at office, this *27th* day of *November* A. D. Eighteen Hundred and fifty *Seven*

Elias J. Honey
Clerk Circuit Court.



No 410000

S T A T E

AGAINST

*Mary Ann or John
Mary Ann's
Mary Ann's*

CAPIAS.

COUNTY OF JEFFERSON, SCT.

The State of Missouri,

To the Sheriff of the County of Jefferson—GREETING:

We Command you to take *Mary Knorpp alias*
Mary Shier if she be found in
your County, and ~~her~~ safely keep, so that you have his body before the
Honorable Judge of our Circuit Court, *on the 4th Monday of May next*
at Hillsboro' within and for the County of Jefferson, then and there
to answer unto an Indictment found against him by the Grand Inquest
for the body of the County of Jefferson, for: *Murder*
contrary to the
form of the Statute in such case made and provided, and against the peace
and dignity of the State.

Elias D. Honey

Witness, ~~THO. C. FLETCHER~~, Clerk of
our said Circuit Court with
the seal thereof hereto affixed,
at office, this *Eighth* — day of
December A. D. Eighteen
Hundred and fifty *Seven*

Elias D. Honey

Clerk Circuit Court.

I Executed the within writ at the County of
Jefferson on the 21st day of January 1858 by apprehending
Mary Knorpp and delivering her to ~~Finus Williams~~
the jailor for said County for safe keeping
Augustine Wiley Sheriff

No

STATE

AGAINST

Mary Knorpp alias
Mary Price

CAPIAS.

Filed Jan'y 22^d 1858
Geo. J. Honey clk

Sheriff's fee \$100

State of Missouri
County of Jefferson
To Hon. G. J. Johnson, one
of the Justices of the County Court
within & for said County of Jefferson,

Your Petitioner, Mary Knopp,
(upon whom a Capias has been served
by the name of Mary Knopp alias Mary Shein)
would respectfully state that on or
about 16th of November 1837, she was
arrested and tried before Wm. Ferry and
G. W. Hughes, Justices of the Peace of
said County, on the charge of the murder
of John Shein, and was by said
Justices acquitted of said charge, on a
hearing of all the evidence in the case.
All of which evidence, as written
down by said Justices, is here to your
honor shown. - But notwithstanding
said acquittal, the Grand Jury
found an Indictment against your
Petitioner, at last November Term of
the Circuit Court, charging her with
the murder of said John Shein.
And a Capias having issued upon
said Indictment, the Sheriff of said
County arrested her, and has delivered
her over into the custody of Fries
Williams, Jailor of said Jefferson
County, by whom she is now im-
prisoned and restrained of her liberty,
at Hillsboro in said Jefferson County,

A copy of which Indictment & Caption, are herewith shown, which, with the evidence above stated are all the facts concerning said restraint, in your petitioner's possession.

Your petitioner alleges that she is entitled to be admitted to Bail on said charge, for the following reasons,

1st Although the charge in the Indictment amounts to murder in the first degree, yet under it a conviction might be had in the second degree, or in any degree of manslaughter, if the evidence warranted it,

2 - The evidence shows a case, upon which an acquittal should be had, as was the case before said Justice,

3 - So far from the proof being evident or the presumption great, to make out a case of murder in the first degree, it shows only a case of accidental homicide,

4 - Viewing the proof in another point of view, that Petitioner shot deceased intentionally, fearing that he was about to come in her house with intent to do her some great personal injury, or to commit a felony, the homicide is justifiable,

5 - The evidence fails in every respect to make out a case of murder in the first degree,

For the foregoing reasons, Your
Petitioner contends that she is
entitled to be admitted to Bail,
she therefore prays Your Honor
to grant her the benefit of the writ
of Habeas corpus, - and that upon
a hearing of all the facts and
evidence in the cause, that Your
Honor, will order that she be
discharged, upon her binding
such Bail as may be deemed
just and reasonable.

her
Mary + Knorpp
mark

Mary Knorpp, the above Pe-
titioner, makes oath and says
the above Petition and the matters
therein as stated, she believes to
be true.

her
Mary + Knorpp
mark

Inwrit and Subscribed

before me. Jan'y 22^d 1858 }

Eliu P Honey Clerk Cir Ct

Petition of
Mary Knapp
for writ of
Habeas Corpus

State of Missouri } "By the Habeas
County of Jefferson } 88, Corpus Act,"

The State of Missouri to ^{William Hull} ~~James Hill~~
~~James Hill~~ of said Jefferson County;
Greeting.

You are hereby Commanded
that the body of Mary Knopp, alias
Mary Stein, now in your custody, ac-
tained, as it is said, under safe and se-
cure conduct, together with the day
and cause of her being imprisoned
and detained, by whatsoever name the
said Mary Knopp, may be known, you
have before me, S. J. Johnson, one of the
Justices of the County Court of the County
of Jefferson aforesaid, at the Court House
in Hillsboro in said County, on the 22nd
day of January 1858, to do and receive
what shall then and there be con-
sidered concerning the said Mary Knopp
alias Mary Stein, so imprisoned and
and detained, aforesaid; and hereof,
fail not at your peril.

Witness my signature, this 22nd day
of January 1858.
S. J. Johnson
County Court
Justice

William Hull

In obedience to the within writ - J. Lewis Williams
 Sheriff of said County bring before the Court
 the Body of Mary Knorpp who is ⁱⁿ my Custody
 by virtue of a Capias issued from the Circuit
 Court of said County upon an Indictment
 found by the Grand Jury of the County of Jefferson
 at the November Term 1857 against said Mary
 Knorpp for Murder. which Capias was served
 by the Sheriff and the said Mary Knorpp
 delivered by said Sheriff to me on the 21st day
 of January 1858. ^{for safe keeping} the original Capias is
 here to the Court shown himn under my
 hand. Jan'y 22nd 1858

attest
 C. J. Hooney

J. Lewis Williams
 William Hull
 mark

State
 vs { Habeas Corpus
 Mary Knorpp
 By the Habeas Corpus
 Act.

Writ of Habeas
 Corpus

It is ordered by the undersigned, Justice of the County Court
 of Jefferson County that the defendant Mary Knorpp
 be discharge^d from custody on her entering into
 Bond of One thousand dollars with good and
 Sufficient Security. Given under my hand this
 22nd day of January A.D. 1858.

COUNTY OF JEFFERSON.

The State of Missouri,

To *Mr. Silvestern, Lewis Sanders, Wiley Flowers & Greeting:* *John Kinports*

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our *Barren* Court for the County aforesaid, on the *27th day of April next*.

at *Wellsville*, then and there to testify, and the truth to say in a solemn matter of controversy, now pending in our said Court, wherein

The State of Missouri Plaintiff and

Mary Kinports at a *Barren* Sheriff is Defendant on the part of Plaintiff

and herein you are once to fail.

Thomas J. Kinports

Witness, *THOMAS C. FLETCHER*, Clerk of our said Court

with the Seal thereof hereto affixed, at office this

2d day of *March* A. D. 1858

Thos J Kinports Clerk.

I Executed the within writ on Lewis Sanders on the 31st
day of March and on Wiley Flowers on the 13th
and on John Knorpp and John Silverthorn on the 14th
day of April 1858 by reading in their presence
and hearing

Augustine Wiley Sheriff

De Laurens County Court
April term 1858

State

vs John

Wiley Knorpp

alias

Wiley Sheriff

for debt

John Silverthorn

Lewis Sanders 31st

Wiley Flowers 13th

John Knorpp 14th

Sheriff fees \$2.00

COUNTY OF JEFFERSON.

The State of Missouri

To Frank. Vance. Chas. Schwind. & Co. Barren

Greeting:

You are hereby commanded, that asking none all manner of
excuse and delay, you appear before our Circuit Court for the
County aforesaid, on the 27th day of April 1858
at St. Albans, there and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, wherein

The State of Mississippi

Plaintiff and

Albany Shaver is

Defendant on the part

of Defendant

and herein you are in no wise to fail.

Witness, ~~THOMAS C. JEFFERSON~~
THOMAS C. JEFFERSON

Shalk of our said Court

with the Seal thereof hereto affixed, at office this

12th day of April A. D. 1858

Chas. C. Hovey

Clerk.

Is Circuit Court

April Term 1878

State

vs } Def

Mary Sherer

Indef

Frank Vance 19

Chas Schwink 19

Lucas Bower 19

G Wileys fees \$ 1-40cts

I Executed the within writ on Frank Vance
and Chas Schwink and Lucas Bower on
the 19th of Aprile 1878 By reading in there
presance and hedring
George Wiley

COUNTY OF JEFFERSON.

The State of Missouri,

To John Thompson, Meriah Smith, Maria Williams

Greeting:

You are hereby commanded, that setting aside all manner of
excuse and delay, you appear before our Council Court for the
County aforesaid, on the 27th day of April 1858
at St. Charles, there and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, wherein
the State of Missouri is Plaintiff and
Mary Sheri is Defendant on the part
of Defendant and herein you are made to feel.

Witness,

~~THOMAS C. FLETCHER~~
THOMAS C. FLETCHER

Sherk of our said Court

with the Seal thereof hereto affixed, at office this

12th day of April A. D. 1858

Edw. S. Honey Clerk.

I executed the within writ on John Knorpp
Marah Knorpp and Abena Williams on the 19th
day of April 1858 By reading in there presance
and hearing George Wiley

in Council Court
April Term 1858

State

vs
Mary Williams

for debt

John Knorpp 19

Marah Knorpp 19

Abena Williams 19

George Wiley fees \$1.50

COUNTY OF JEFFERSON.

The State of Missouri,

To Henry J. Denny

Greeting:

You are hereby commanded, that seeing and all manner of
excuse and delay, you appear before our Court Court for the
County aforesaid, on the 27th day of April 1858
at St. Louis, then and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, wherein
State of all persons Plaintiff and
Henry Joseph Allen Dyer, is Defendant on the part
of Aft and herein you are so to say.

Witness, ~~THOMAS~~ E. FLETCHER, Clerk of our said Court

with the Seal thereof hereunto affixed, at office this

18. day of April A. D. 1858

Edw. Denny
Clerk.

20 Council Street
April 26th 1858

Wm. H. Hall

no 3 2nd

Henry Thompson.

for acct

Henry P. Starnes.

New York

COUNTY OF JEFFERSON.

The State of Missouri,

To

Greeting:

You are hereby commanded, that settling aside all manner of
excuse and delay, you appear before our Circuit Court for the
County aforesaid, on the 27th day of April 1858
at St. Louis, then and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, wherein
The State
Plaintiff and
Mary Abner
Defendant on the part
of Defendant and herein you are in no wise to fail.

Witness THOMAS D. FLETCHER Clerk of our said Court

with the seal thereof hereto affixed, at office this

22nd day of

April

A. D. 1858

Thomas D. Fletcher

Clerk.

Co. Percival Woods
April Decm 1837

Atte

Car. W.
Mary Wood.

for doct,

Saml J. Tenney,

Wd Decm 1837

Leave the children
by taking the same
to Kemp's Tenney
in his presence
April 23, 1838

Mrs L. Lemaster
born to before me April
26th 1838

Chas. H. Tenney
Att

COUNTY OF JEFFERSON.

The State of Missouri,

To Lewis Sanders, Wiley Stowers, John Knorr
Greeting:

You are hereby commanded, that setting aside all manner of
excuse and delay, you appear before our Circuit Court for the
County aforesaid, on the 26th day of October next
at St. Louis, then and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, between

State of Missouri is Plaintiff and

Mary Knorr, alias their Defendant on the part

of Plaintiff and herein you are so made to part.

Witness, ~~THOMAS~~ ^{Charles George} FLETCHER, Clerk of our said Court

with the Seal thereof hereto affixed, at office this

26th day of August A. D. 1858

Chas J. Henry
Clerk.

Dobson Court

Oct. Term 1858

State

Mary Ann appellas
Shier

for pett

Louis Sanders 14

Wiley Flowers 15

John Knopp 14

Sherriff fee \$ 1.⁰⁰ 50^{cts}

I executed the within *pro* in the County of
Jefferson by reading the same within the presence
and hearing of Lewis Sanders, Wiley flowers, &
John Knopp on the 11th day of October 1858

Wm. D. Dover Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To

John D. C. Jones, Sheriff

Greeting:

You are hereby commanded, that seeing and all manner of
excuse and delay, you appear before our Circuit Court for the
County aforesaid, on the 26th day of October
at St. Louis, then and there to testify, and the truth to say in a
certain matter of controversy, now pending in our said Court, wherein
State of Missouri Plaintiff and
Mary Scherer Defendant on the part
of said

and hereby you are in no wise to fail.

John D. C. Jones

Witness, ~~THOMAS~~ FLETCHER, Clerk of our said Court

with the Seal thereof hereto affixed, at office this

1st

day of October A. D. 1858

Geo J Honey

Clerk.

I executed the within Spec in the County of
Jefferson State of Mo by reading the same within
the presence and hearing of William Butler
Maria Knorr & Kemp Finney on the 14th day of
October 1858 and on John Knorr by leaving him a
copy of the original Spec on the 14th of October 1858

Oscar Dover Sheriff

To Circuit Court
October Term 1858

State

v s Spec

Wm Butler
Maria Knorr & Kemp Finney

for debt

Wm Butler 14

Kemp Finney 15

John Knorr 14

Maria Knorr 14

Sheriff fees \$2.00

to excuse the defendant in killing the deceased, on the principle
of self defence, the Jury must find that at the moment of
killing, the deceased, was on reasonable grounds ~~to~~
apprehend a design of the part of the deceased to do her or
her children some great personal injury, and there was
reasonable cause to apprehend ~~that~~ imminent danger of such
design being accomplished by him, and that she shot him
in the necessary defence of herself and children, to ~~avoid~~ prevent
the accomplishment of his wicked purpose.

The State
Against } Indictment for Murder
Mary Knorr }

As the law to govern you in determining the question of guilty or innocence of the Prisoner and of the nature and grade of the Crime in the event you find her guilty, the Court submits the following —

The Prisoner being on her trial for Murder in the 1st Degree before the Jury can convict her of that grade of Crime, they must find as facts from the Evidence in the Cause that she did deliberately, premeditatedly and intentionally kill John Shires as charged. In other words that in inflicting the wound which resulted in the death of Shires, the Prisoner intended to kill or do some great bodily harm to the deceased. And further that such intention was fixed and formed in her mind before giving the mortal stroke while she was in a Condition of Mind Capable of deliberating and reflecting, and not under the Control of Sudden and violent passion. The Law is tender to the infirmities of our Nature, wisely discriminating between the guilt of an Act of homicide coolly and deliberately done and one done under the impulse of sudden and uncontrollable passion. It is only when the killing appears to have been the result of a deliberate purpose and intention to kill or do some great bodily harm that the Law attaches the guilt and Criminateness of Murder to the act, passion being considered a mitigating Circumstance which extenuates the offence to that grade of Crime called Manslaughter. But passion alone without any adequate provocation, is not sufficient to lessen the grade of Crime of an Act of homicide to Manslaughter. The provocation was shown to have been sudden and of such Character as would be reasonably calculated to excite to Excite strong and uncontrollable passion in a heart not naturally wicked and depraved, and

would ordinarily impel men not naturally wicked and malicious to deeds of violence of a character involving life. Men words used by the deceased however reproachful and insulting are not sufficient. It is only where an act of killing appears to have been caused by strong and uncontrollable passion, suddenly excited by adequate provocation that the Law extends its clemency to the party killing, and although not entirely justifying the deed yet it mitigates its criminality to the Degree of Manslaughter.

Should the Jury find the Prisoner guilty of Murder they will next determine the degree of that Crime whether the 1st or 2^d Degree - In both degrees of Murder alike the Law requires the same deliberate Malice and premeditation as contradistinguished from Manslaughter committed in the heat of passion suddenly and uncontrollable passion. With this difference however that in Murder in the 1st Degree all the facts and circumstances indicating deliberation and premeditation are required to be proved affirmatively by Evidence in the Cause, which of its own proper force satisfies the Mind of the Jury that such killing was wilfully and deliberately done. Whereas in Murder in the 2^d Degree of Murder, the wilfulness and deliberation are deduced as a presumption of Law from the act of killing alone, the prisoner failing to show by Evidence on his part, that it was done otherwise, as in the heat of passion or in lawful self defence. Every homicide under unknown Circumstances, or where a sufficient number of the facts and Circumstances relating to such killing are not established to show it to be a different offence, the Law presumes to be Murder in the 2^d Degree only.

If therefore the Jury find that the Prisoner killed John Shirey under Circumstances showing that he intended to kill him, or do him great bodily harm, and that

Such intention was formed and formed in her mind before inflicting the mortal injury, when she was not under the dominion, of sudden and uncontrollable passion excited by adequate provocation, then they will find her guilty of Murder in the 1st Degree

But on Contrary if a sufficient number of facts and Circumstances, evincing of such deliberate intention to kill or to do some great bodily harm, are not made out by the Evidence, then unless the Prisoner has satisfied the Jury by Evidence that the deed was done in the heat of ~~passion upon sudden provocation~~ sudden and uncontrollable passion upon sufficient provocation the Jury will find the Prisoner guilty of Murder in the 2nd Degree, and will fix her punishment to imprisonment in the State Penitentiary for any number of years not less than ten,

If the Jury find that the Prisoner, without the design of causing his death, struck the deceased at a time when he was peacefully attempting to pass from ground and home

If the Jury find that the Prisoner, without the design of killing the deceased, but in the heat of sudden and uncontrollable passion, and in a cool and unusual manner, shot and killed him, then she is guilty of Manslaughter in the 2nd Degree, and the Jury will so find and fix her punishment to imprisonment in the Penitentiary for a term not less than three nor more than five years

And if the killing was done by the Prisoner without the intention to kill but in the heat of sudden and uncontrollable passion, and by a dangerous weapon then she is guilty of Manslaughter in the 3rd Degree and the Jury will fix her punishment to imprisonment in the Penitentiary for a term not less than two or

more than three years or by imprisonment in the County Jail for a term not less than six months or by fine not less than five hundred dollars or by both a fine not less than one hundred dollars and imprisonment in the County Jail not less than three months.

And if on a fair and candid examination of all the evidence in the Cause, the Jury shall find that there exists substantial reasons to doubt of the guilt of the prisoner they will acquit her.

I. If the Jury find

If the Jury find that the Prisoner ~~had~~ a design to kill the deceased, shot him while he was engaged in ~~the perpetration~~ in the perpetration of an assault upon her or her family, then she is guilty of manslaughter in the 1st Degree.

~~If the Jury believe from the evidence that the deceased came to his death~~

If the Jury believe that while the prisoner was resisting the attempt of deceased to enter her yard in a peaceable manner, the deceased seized hold of the gun and attempted to wrest it from her hands, and that in the struggle the gun was discharged by accident, they will find the defendant not guilty.

He the Jury find the defendant Guilty
of Murder in the 3^d degree and
Does the Jurors find the defendant
in the Penitentiary for the term
of years and days
Fines
Fines
Fines

State } Indictment for murder
vs. }
Mary Schierer }

The defendant by her counsel comes and moves the court to set aside the verdict and judgment rendered in this cause and to grant a new trial for the following reasons.

- 1st The verdict of the jury is against the evidence in the cause.
- 2nd The verdict is against the law
- 3rd The verdict is against the weight of evidence in the cause
- 4th The verdict is against the law & evidence,
- 5th The court improperly refused to permit the defendant to recall a witness before the argument of the cause was commenced.
- 6th The court erred in refusing instructions asked by the defendant;
- 7th The court erred in giving the ^{preamble &} instructions to the jury under which the verdict was found.
- 8th The verdict is against the instructions of the court.
- 9th The Court improperly refused to admit the evidence of the declaration of the deceased made immediately after the accident.
- 10th The court improperly refused to permit the defendant to give evidence of temper and disposition of the deceased.
- 11th The Court improperly excluded the evidence offered by the defendant of the acts of deceased towards defendant & her children previous to the shooting.
12. The defendant has since the trial discovered material evidence for her defence.

13 The defendant was not furnished a list of the jurors as the law requires in time to examine the same

14 The instructions of the court are calculated to mislead the jury and are not the law of the case

15 There was no evidence to sustain the finding of the jury, & the evidence was improperly interpreted as defendant has since discovered.

16 The name of the deceased was not proven as charged but the proof showed that his name was Shiser

17 There is no evidence to show that there was a mortal wound given by defendant of which deceased died

18 The defendant was not furnished with a copy of the indictment

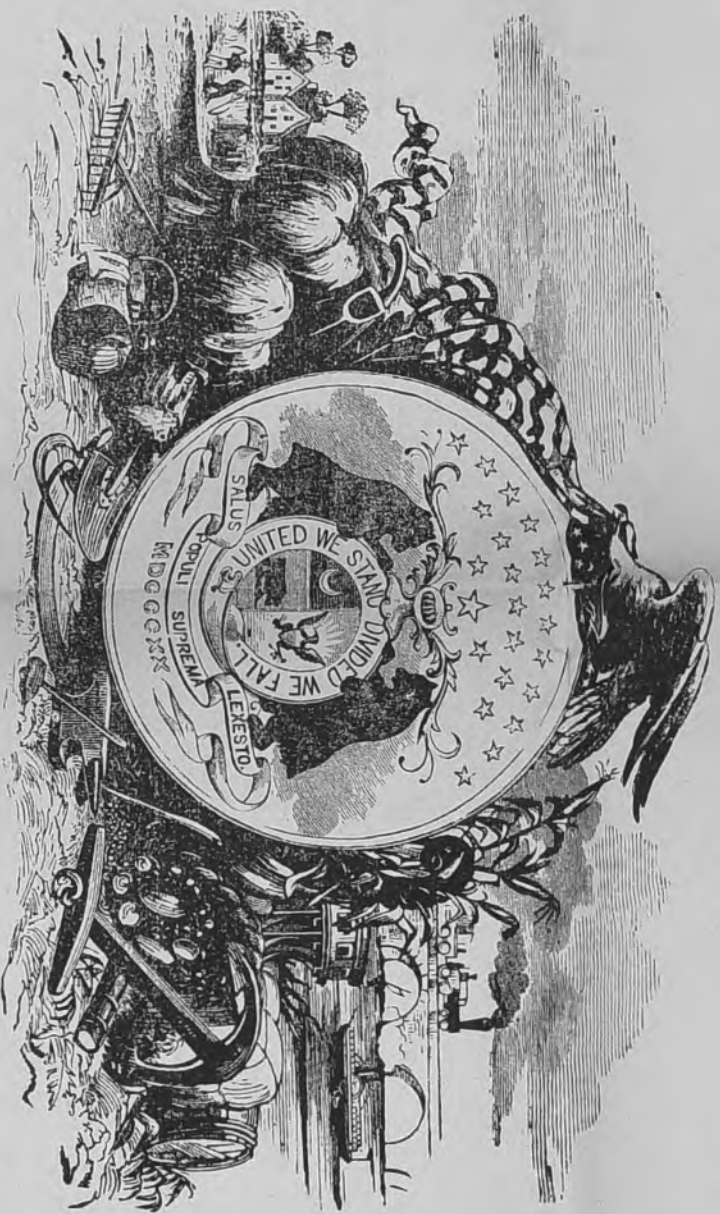
Beal & Fletcher for deft

State
vs
Mary Scheiner

Motion to set aside
verdict and judgments
and to grant a new
trial

Filed Oct 28th 1858
Ellis & Henry Clerk

THE STATE OF MISSOURI



To All who shall see these Presents---Greeting:

Know All That, By virtue of authority in me vested by law, and for good and sufficient reason appearing, I, R. M. STEWART, Governor of the State of Missouri, do hereby pardon Mary Heier, by a judgment of the Circuit Court of Jefferson County, Mo. 1868, at the October term, for the space of two and 1/2 years, for the crime of Murder in 3^d Degree and I do hereby restore and entitle the said Mary Heier to all the rights, privileges and immunities, which by law attach and result from the operation of these presents.

In Testimony Whereof,

I have hereunto set my hand, and caused to be affixed the Great Seal of the State of Missouri: Done at the City of Jefferson, this First day of November in the year of Our Lord and thousand eight hundred and fifty Eight of the Independence of the United States the Eighty-Ninth, and of the State of Missouri the thirty Eighth.

BY THE GOVERNOR.

R. M. Stewart
Governor of State.

R. M. Stewart