

Jefferson County Circuit Court
Case Files - Criminal
April 1858 No. 10

Box

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Folder

13

State

vs.

Miller, Frederick

Killing cattle

Killed John Winer's horse

State of Missouri } ss.
County of Jefferson }

The State of Missouri to the Sheriff
or any Constable of said County greeting

Whereas Complaint has been made before
me one of the Justices of the peace in and for the
County aforesaid upon the oath of John Miner
that Frederick Miller of the County aforesaid
did on or about the 23rd day of February, 1858
at the County of Jefferson that he the said
John Miner found two of his horses shot in
the Woods near one Frederick Millers fence
and this Deponent says he verily believes that one
Frederick Miller is guilty of the facts Charged
These are therefore to Command you to take
the said Frederick Miller if he be found in
your County and take and safely keep the said
Frederick Miller so that you have his Body
forthwith before me to answer the said
Complaint and be further dealt with according
to law —

Given under my hand and
Seal this 1st day of March A. D. 1858

Alex^r Smith
Justice of the Peace

I enclose the within writ as is in
within commanded by ^{in the Presence} riding and taking the body
of Frederick Miller who is named in Cusity and
deliverin up before the Court to her father according
to law this the 3 day of March 1848.

Philip Kettelman Const of Maranock
Tarrantship

Witness my hand
this 17th day of March 1848
John H. Henry Clerk

State of Missouri
Geo. Miller

State of Missouri
County of Jefferson } ss.

Before Me Alex^r Smith a Justice
of the Peace for said County personally came
John Winer who being duly sworn according
to law deposeth and saith that on or about
the 23rd day of February 1858 in the County of
Jefferson that he the said John Winer found
two of his horses shot in the woods near
one Fredrick Millers fence and this Depo^{nt} saith
says that he verily believes that one Fredrick
Miller is guilty of the facts charged and further
this Depo^{nt} saith not John Winer

Sworn to and subscribed before
me in the County aforesaid this
1st day of March 1858

Alex^r Smith
Justice of the Peace

Attest
John W. Miller
D. S.
J. C. Miller

Filed at New York 17th 1858
John J. Henry Clerk

March 1st } State of Missouri
1858 } VS

Fredrick Miller

Warrant Issued the first day of March 1858
upon the Complaint and oath of John Winer
for the Crime of Shooting Horses, and directed
to Constable Helderbrand of Merrimac Township

Warrant returned 3rd day of March 1858
Executed by having the body of the said
Fredrick Miller before the Justice

The Justice having heard the evidence
adjudges that said Dependant give bail in the
sum of two hundred Dollars to appear on the
first day of the next ^{term} of the Circuit Court
for the County of Jefferson

Then and there to abide until discharged
by due course of law Alex. Smith

Justice of the Peace

State of Missouri }
County of Jefferson } set.

I Alex. Smith do certify the foregoing to be a
true and complete transcript from the entries on my docket
in the case of the State of Missouri VS. Fredrick Miller
on a charge of the crime of shooting horses

And the examination of witnesses and of the prisoner
and all the papers before me are attached hereto
and herewith returned

Given under my hand this third day of March
1858 Alex. Smith

Justice of the Peace

June 17th 1858
Chas J Henry etc

State of Missouri }
County of Jefferson } ss.

Before the undersigned Justice of the Peace for said County came Frederick Miller William Thomas and Mr Richman and severally acknowledged themselves to owe the State of Missouri the sum of two hundred dollars to be levied of their goods and Chattels lands and tenaments if default be made in the Condition following to wit

The Condition of this recognizance is such that if the above bound Frederick Miller shall personally be and appear before the Circuit Court on the first day of the next term thereof next to be holden in and for the County aforesaid then and there to answer a charge of a Criminal offence and abide the Judgment of the Court and not depart without leave then this recognizance shall be void, otherwise it shall be and remain in full force and virtue in law

Taken and acknowledged }
before me on the 3rd day of }
March A. D. 1858 }

Frederick ^{his} Miller
mark
William Thomas.
William Richman

Alex^r Smith
Justice of the Peace

State
to J. R. R. R.
and Heiler

October 17th 1818
John J. Henry etc.

State of Missouri
County of Jefferson

State

vs
Frederick Miller

Evidence

^{Winer}
That on the 13th day of Feb'y 1838, That
two of his horses runaway and after search
being made for the said horses, was found on
the 14th day following near the residence
of one Frederick Miller in the county of Jeff-
erson. That the said John Winer at the house
of the said Frederick Miller, and that Nath-
aniel Burges & Benjamin Winer was on search
of said horses and finding of said horses near
the residence of the said Miller, and brought
him down to the house to which the said Miller
and the said Winer were, and an examination
he found his horses shot, and that the said
Winer asked the said Miller if the said horses
had been in side of his Inclosure in answer,
the said Miller said not that he had not seen
them. That the said Miller did on the 25th day
of Feb'y come to the said Winer with his friends,
Miller's friends agreed to go into an arbitration. That
also, the said Miller, & the said Winer, ^{mutually} agreed to
stand to the Reward of the Arbitrators, and after
the matter being arbitrated, a Reward given by the
arbitrators, ^{but} Miller refused to stand to it, as he
agreed, and further this ^{deponent} ~~opponent~~ ^{deponent} doth not.

Sworn to and subscribed before me
in the County aforesaid this

3rd day of March A.D. 1838

Alen. Smith

Justice of the Peace

E. B. Scott, being duly sworn Says, that on the day that John Winer was on search of his horses in the said E. B. Scott saw the horses about sundown and that they were not shot, and the last that he saw the horses they was going in the direction of Mr Millers, and that John Harnes was not at home at that time, but did come home in about a half hour afterwards and further this ^{deponent} ~~deponent~~ } E. B. Scott
 Smith not-
 State of Missouri }
 County of Jefferson }
 Justice of the Peace

Nathaniel Barrgan being duly sworn Says, that he trailed the horses found the trail of the horses between John Harnes & Millers, and trailed them to the said Miller farm this being on the 24th day of July, about 12 o'clock at noon, and finding the two horses shot with shot by the Blava in the snow, back of the said Millers field about ~~east~~ east & fifty yards from the house, and also finding a trail of some person going from the house of the said Millers in the direction where the horses was supposed to have been shot, and further trailed the person out side of the inclosure of the said Millers near where the was found, and also returned back in direction of the house, also this deponent further states it appears that there was dogs after the said horses.

and further this deponent } Nathaniel ^{is} Barrgan
 Says the not, } Mark
 State of Missouri
 County of Jefferson

Sworn to and subscribed before me
 in the County aforesaid this 30th day
 of March A.D. 1858

Alex^r Smith
 Justice of the Peace

B. F. Winer being duly sworn says that on
the 24th day of July 1888, after being on search
of the horses found them on of said horse
in or about three hundred yards from the house
of the said Miller. Shot with shot and trailed
some person from the house to where the said
horse was supposed to have been. Shot and pur-
sued after the said horse for some distance and
the said B. F. Winer asked the said Miller if
he had man that went in the direction to where
the horse was found, & that the reply that the
said Miller made. That it was his best man
on Monday 22nd and that he had been out hunt-
ing also finding the other horse. That is the blue
horse about a half mile from the house. ~~As~~
it was not discovered the said horse was shot
not until he took him home, and this document
further states that the said Miller did on the 25th
day of July, came down to his father that is John
Winer to compromise ~~that~~ the matter; also it was
agreed upon by the said Miller & said Winer
that Is. Burdett D. B. Hull Nor Helt and Somers
to assess the damage and they mutually agreed
to abide by their decision, the damage being
given by the said arbitrators, the said Miller
refused to stand to it.

B. F. Winer

Sworn to and subscribed before
me in the County of Jefferson
this 3rd day of March. A. D. 1889

Alex^r Smith

Justice of the Peace

~~Victor Vimes being duly sworn deposes
and says,~~

Fredrick Miller the Prisoner then examined
e says he knows nothing about the
matter at issue and further Daith not

I Certify the above to be the
Statement made by the said Fredrick miller
in my presence all witnesses on both sides being
absent I on this 3^d Day of march 1858

Alex^r Smith

Justice of the peace

State
as { manuscript
and Miller

Filed March 17th 1858
Chas. J. Hovey
Clerk

Fee bill in Case
 State of Missouri
 vs
 Fredrick Miller

Justice fees	
for Issu. States Warrant	50
" " 1 Subpoena	25
" Adms. 5 oaths	25
" Taking Bond	50
" Certified Copy of Docket	15
	\$ 165

Constable fees	
for serving and returning Warrant	50
" " " " 1 Subpoena	50
" Keeping prisoners	100
	\$ 200

State of Missouri }
 County of Jefferson } I hereby certify that the fore-
 going is a true Copy of the bill in case of the State
 vs. Fredrick Miller, as the same remains of Record on
 my docket
 Alex^r Smith
 Justice of the Peace

Given at our 17th 1858.
John & Henry Elk

State of Missouri } In the Circuit Court
County of Jefferson } of Jefferson County, Mo.
Term at 1858

The Grand jurors of the State of Missouri now
here in Court duly empanelled, sworn, and charge-
d to inquire within and for the body of the
County of Jefferson, upon their oath present
that Frederick Miller late of said County,
on the twenty third day of February one thou-
sand eight hundred and fifty eight with force
and arms at and in the County of Jefferson
aforesaid did willfully and maliciously kill
certain cattle to wit, one horse belonging to one
John Miner -

Against the peace and dignity of
the State of Missouri -

And the jurors aforesaid upon their oath
aforesaid do further present that Frederick
Miller late as aforesaid on the day and
year aforesaid at the County aforesaid -
willfully and maliciously did maim and
wound certain brand cattle to wit two horses
belonging to one John Miner -

Against the peace and dignity of
the State of Missouri -

Samuel L. Hall Circuit
Att'y

No 10

John Wain

Proseuto

Wate

1857

Proseuto & Wain

Proseuto & Wain
Killing cattle

A Fine Day

A Bowles

Proseuto

Proseuto

John Wain

Proseuto Wain

Proseuto Wain

John Wain

Wain Wain 29th 1858

Wain Wain

Wain

Before the Jury Can find the Defendant guilty, they must find that he did shoot and wound the horses of ~~the~~ ^{the} owner as charged. ~~and~~ that he was instigated to do the deed by a spirit of dislike and malice towards the owner. And if the Jury so find they will convict the defendant and fix his punishment by imprisonment in the State Penitentiary for a term not less than two nor more than three years Or by imprisonment in the County Jail for ~~the~~ term not less than six months, or by fine not less than two hundred and fifty dollars. or by both a fine not less than one hundred dollars and imprisonment in the County Jail ~~for~~ ~~the~~ not less than three months.

If upon a fair and candid examination of all the evidence in the Cause the Jury find Substantial reasons to doubt of the guilt of the defendant they will acquit.

We the Jury find the defendant
guilty and assess the fine at
Two Hundred & fifty dollars

J. A. Beecher
Foreman.

State
vs
Miller

Philip Pipkin & James A. Beal attorneys
for the defendant makes oath and
says that when said cause came
up to be tried the Attorney for the
State stated that he would not
further prosecute the defendant
on the first Count of the indict-
ment, And then upon, ^{said that he} entered a
nolle ~~prosequere~~ as to the first Count,
Sworn to & subscribed
before me Oct. 28th 3 P. Pipkin
1888 J. A. Beal

Fredrick Miller on oath states that some
two or three weeks before the present term
of this Court, he applied in the Clerk's office
of the Circuit Court of Jefferson County,
Missouri for a summons for John Mark
as a witness in his behalf, that he supposed
that said witness was summoned and did
not know any thing to the contrary until
he was brought to trial, He also states that
said John Mark is a material witness in
affiant's behalf, that he expects to prove
by said Mark that he was not present
and did not do the shooting of the horses
of Miner, that he could not prove the same
facts by any other witness in attendance
on Court, and that if a new trial be granted
he will be able to procure the attendance

of said writ, and that the application made
for a new trial is not made for vexation or delay,
but because he has a meritorious & just defence
to the action against him, his
Sworn to & subscribed } Dred + Müller
before me Oct. 28th }
1838. }
Chas D Honey Clerk

State

vs
Müller

Affidavit for
New Trial

State
vs.
Miller

Defendant comes and moves the court to grant a new trial in the above cause for the following reasons.

1. The Court erred in ruling defendant to a trial in the absence of his witness John Mar.
2. The Court erred in not striking out the first Count in the indictment before the Cause was submitted to the Jury.
3. The fine assessed by the jury is excessive.
4. The Court erred in not sustaining the motion to quash the indictment.
5. The verdict of the Jury is against the evidence and the weight of evidence.

Beall & Pipkin
attys.

State

by

Wells

Proctor for new head

Decd. Oct 28th 1858
Dues of Honey Creek

as contained therein
has been granted