

Jefferson County Circuit Court
Case Files - Criminal

Box No.

18 Folder No. 83

May 1867

State of Missouri

vs

Benton, Elizabeth Ann

Infanticide

Defendant African American; jury
verdict not guilty; depositions

THE STATE OF MISSOURI,

COUNTY OF SAINT LOUIS.

} ss.

To *J. C. Cassman M.D. James Martin*
Mrs Ellen Smith & T. J. Smith

You are hereby commanded, that, all excuses and delays being set aside, you personally be and appear before the undersigned, a Justice of the Peace within and for the Township of *St. Louis*, in the County of *St. Louis*, on the *eleventh* day of *February* 186*7*, at the hour of *10* o'clock *P.* M., at his office in said Township, to testify on the trial of a case wherein *the State of Missouri* is *prosecutor* plaintiff, and *Elizabeth Ann Beata (as heretofore)* is defendant, on the part of the *State* and of this you are not to fail at your peril.

Given under my hand, this

11th day of *February* 186*7*

Wm. M. Foster
Justice.

I Execute this Subpoena upon the within named
Witness By Reading the same to them.
This 11th day of Feb. 1867

John Hunt
Clerk

SUBPOENA.

State of Missouri
- vs. -

Elizabeth Ann Benton
To Mrs Ellen Smith
Moses Morton
F. J. Smith - and
Dr Geo. Varner
to appear forthwith -

Justice

Court Fees

35
1.05

State Warrant.

State of Missouri }
County of Jefferson } ss.

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 & for the
County of aforesaid, that Anna Benton
(a Negro woman) late of the County
aforesaid, did on or about the first
day of February A.D. 1867, at the County
of Jefferson Mo. did as it is alleged
smother her child to death —

These are therefore to command
you to take the said Anna Benton
if she be found in your County
& take & safely keep the said
Anna Benton so that you
have her forthwith before
me, to answer the said Complaint;
she to be dealt with according to Law.
Given under my hand this 11th day of February
A.D. 1867.

H. M. Parker, J.

I Execute this warrant by Apprehending the within
named E. A. Benton before H. M. Parke A. J. P.
This 11th day of February A. D. 1867.
John Hunt
Const

State Account.

State

Pross.

us.

Ames Benton

all fees

costs

Examination,

State of Missouri }
County of Jefferson } Set

On this 11th day of
February A.D. 1867. Came Mrs Ellen
Smith (wife of F. J. Smith Esq. - of
said County, - and being sworn
says, that a certain Negro woman
by name, ^{Elizabeth} Anna Benton has been
& is employed by me as a servant
in the House wherein I live in
Little Rock Township. Jeff. Co. Mo.
I suspicion that Elizabeth Ann Benton
when I was hired of being with
child & she denied it - but on
Friday morning February 1st 1867 I
suspicion that said Elizabeth Ann
Benton had had a child
& hired Martin a colored servant -
in my employ to tell me that he
had seen a child in a hollow
Tree & then I went & saw a
child in a hollow Tree about
150 yards from my dwelling house
& that I verily believe said child
is said Elizabeth Ann Benton's child

Ellen Smith.

Sworn to and subscribed
before me this 11th day of
February A.D. 1867.

H. M. Parker
Justice of the Peace.

Statement of Anties

State of Missouri } 201
County of Jefferson } "

Moses Morton
a colored man of Lampsul age
depose that & says, - That he knows
Elijah & Ann Benton colored
servants in the employ of F. J. Smith
in Little Rock Town, Sept. 20th 1867,
& that on the morning of Friday the
first day of February 1867 at the
request of Mrs F. J. Smith I went
around with her & found a child
in a hollow Tree which I believe
to be Elijah & Ann Benton's child
as I had suspicions that ~~had~~ had
had a child & here hid it. - The
child is a boy child & was dead
when we found it. - & that said
Elijah & Ann Benton are said
morning about daylight left -
the kitchen (I was sleeping over
said kitchen) & was gone about
one & 1/2 hour & then returned &
when I came down stairs I found
said Elijah & Ann sitting by the
cooking stove. - and further
says that. - Moses Morton

Sworn to and subscribed
before me this 11th day of

February A.D. 1867 H. M. Parker
Justice of the Peace.

Statement of Evidence.

State of Missouri }
County of Lehigh } set

H. W. Varnum
M.D. of Lampul age and a regular
practising Physician residing in
Lehigh Co. Pa. deposes that he was called upon
by Justice H. M. Parker to make
an examination of a dead
male child on the first day
of February A.D. 1857 and that
he did make such examination
on said day & it is of hollow
a certain male child being
produced to him which it was
alleged was the child of Elizabeth
Ann Benton a Negro woman
late in the custody of F. J. Smith
to wit - The child was born alive
& probably suffocated

Sworn to and subscribed before
me this 11th day of February
A.D. 1857.

H. W. Varnum M.D.

H. M. Parker
Justice of the Peace

State of Missouri }
 — vs —
 Elizabeth Ann Benton) Trial Before
 Justice H. M. Parker February 11th
 1867.
 Fee Bill

Justice Parker's Fees	State warrant	.35
"	Docketing Case	.10
"	1 Subpoena	.35
"	3 oaths	.15
"	Writing Caid end	5.00
"	Rendering Decision	.35
"	Committal	1.00
"	Fees Bill	.35
"	Total Justice Fees	\$7.65

Court John Hunt's Fees	Serving writ	.75
	Taking Prisoner to Jail	1.00
	Serving 3 Subpoenas	1.05
	Mileage 20 miles	4.00
	Board her Prisoner	1.00
Paid for 2 Horses & feeding same		4.10
	Rail Road Fare	.85
	Total Court Fees	\$12.75

Witness Fees	Moses Morton	.50
	Mrs Ellen Smith	.50
	Total witness Fees	\$1.00

H. M. Parker
 Justice

State of Missouri }
County of Jefferson } set

Statement of Prisoner.

Clyde M. Ann Benton the Prisoner
then examined says. — That she is
25 years old that she has been
married that her husband
has been dead 3 years this month
1867. February that she ~~was~~ was
hired to Mr F. J. Smith as a house
servant in Little Rock Townsh
Leff. Co. Mo & that on Friday
morning the first day of February
A. D. 1867 she gave birth to
a Boy Child in the Kitchen of
F. J. Smiths House at about
day break & after giving birth
to said Boy Child I took it
out of the house & carried about
150 yards & placed said child
in a hollow Tree & then I came
back to the house it being then
daylight & on the way from
the tree wherein I placed the
child I was so weak that I
sloped & rested against the fence
& then in the morning Mrs Smith
suspecting me as having a child
& went & looked & found it
& accused me of it & I told her
that I put the child there that

Morning this was about 3 hours
after I had put the child in
the hollow Tree - & that I knew
she would find it out - the
child never made any noise
from the time I gave birth to it
up to the time I placed it in the
hollow Tree - that I did not
know the child but merely
placed it in the hollow Log (tree)
at that time I was not able to
bury it - or I should have
done so as I expected to bury
it - I do not think the child
was alive when it was born
or it would I think have
made some noise. - now that
I know I am not guilty of
killing the child. - the father of
said child is Rufus Pease -

Witness
H. M. Parker
John Hunt
Elizabeth Ann X Bentam
mark
Lebb. Co. Mo. Feb. 11th 1867

State of Missouri

vs. 458

Elizabeth Ann Benton,
(a Negro-woman)
on charge of killing
her infant-child,
and examined before
Justice Parker Feb.
11th 1867. App. Co. Mo.
& committed to Jail
in default of \$500. —
Bail. —

J. L. d. Feb. 16th 1867

Wm. H. Moore
Clerk

State of Missouri
Fifteenth Judicial Circuit 300

In the Circuit Court of Jefferson County
at the May Term 1867 - The Grand Jurors of the
State of Missouri empowered and charged
to enquire within and for the body of the
County of Jefferson upon their oath do
present that Elisabeth Ann Benton
~~then~~ at the County of Jefferson on the
11th day of February A.D. 1867 - then and
there ~~unlawfully~~ was pregnant
and with child and then and there being
pregnant with child as aforesaid then
and there, unlawfully, wickedly, wilfully,
feloniously, secretly, privately and un-
known to any person whatever
was delivered of said child - And the
said Elisabeth A. Benton then and
there having been so as aforesaid de-
livered of said child in manner aforesaid
and then and there before the de-
livery and birth of said child was
known to any person whatever then
and there unlawfully, wickedly, felo-
niously, wilfully on purpose and pur-
pose and of her malice aforethought
did strive and endeavor to hide and
conceal the delivery and birth of said
child before the delivery and birth of
said child then and there was known
to any person whatever, by then and
there, she the said Elisabeth A. Benton
unlawfully, wilfully, feloniously, wick-
edly and on purpose, secretly, private-
ly and unknown to any person
whatever, putting, placing, secreting
and hiding said child so delivered
and born as aforesaid, in manner
aforesaid, in a hollow log in a
secret and infrequent place
in the woods so that it then and
there might not be known
whether said child was delivered
and born a live or delivered
and born dead against the
peace and dignity of the State

Smith Cir. Ct.

Expositive

are

State of New
York

Blackburn & Breckinridge

Witnesses

Mrs. Ellen Smith

Moses Norton

J. H. Smith

Dr. G. A. Barnum

a true bill

William H. Breckinridge

James

Filed May 8 "1867

Edw. J. H. only

COUNTY OF JEFFERSON,

The State of Missouri,

To

Mrs Ellen Smith, Mrs Martin J Smith

You are Hereby Commanded, That setting aside all manner of excuse and delay, you appear before our Circuit Court for the County aforesaid, ~~at the~~ *South*

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

Complainant is
Plaintiff, and *E A Denton is*

Defendant, on the part of *Plaintiff* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with

the seal thereof hereto affixed, at office, this day

of A. D. 1867.

Elias F. Honey Clerk.

SUBPENA.

TO

Jefferson Circuit Court

May... TERM, 1867

State

Ezra A. Benton

for Mff

Mrs. Ellen Smith

Moses Morton

J. J. Smith

Sheriff fee \$1.00

I Execute the within in Jefferson
County Mo on Mose Morton and
J. J. Smith on the 9th day of May 1867
by Recalling the same to him
John Williams
Sheriff by
J. H. Mulholland Deputy

COUNTY OF JEFFERSON,

The State of Missouri,
To *Dr. H. A. Vermont*

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~~ *prothon* at Hillsboro, 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 of Indiana*

vs
Plaintiff; and *Elizabeth A. Denton*

Defendant, on the part of *Plaintiff* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this . . . & . . . day of *May* . . . A. D. 186*7*.

Elias F. Honey Clerk.

SUBPŒNA.

TO

Jefferson Circuit Court

May... TERM, 1867

State

Eliz^d. A^d Benton

for Plff

vs A A Hammon

Sheriff fee 50

I Execute the within in Jefferson County
Mo on 4th of November in the 16th day
of May 1867 by Recalling the 3^d Service to him

John Williams
Sheriff

By R G Whitcomb Deputy

COUNTY OF JEFFERSON.

The State of Missouri,
To *Moses Norton*

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 *fourth* at Hillsboro, 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 of mo*

Plaintiff, and *E. A. Benton*

Defendant, on the part of

Plaintiff

and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *14th* day of *May*... A. D. 186*7*

Elias F. Honey Clerk

SUBPENA.

TO

Jefferson Circuit Court

May ... TERM, 186 ...

State

vs

E. A. Benton

for self.

Moses Morton

Sheriff fee 50

Executed the within in Jefferson County Mo
on 10th day of May 1867
by executing the same to him

John Williams
Sheriff

COUNTY OF JEFFERSON.

The State of Missouri,

To *Wm. B. Mack*

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 *forthwith* at Hillsboro, 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 of Mo*

Plaintiff, and *Ely A. Denton*

Defendant, on the part of *Plaintiff* and herein you are in no wise to fail.

WITNESS, ELIAS F. HONEY, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *13th* day of *May* A. D. 186*7*.

E. F. Honey
Clerk.

SUBPŒNA.

TO
Jefferson Circuit Court

May... TERM, 1867

State
vs
E. A. Benton

for Puff
y B Mof
Shriff fee 50

I Enclosed the within in Jefferson County Mo
on thos B Mof on the 13th day of May 1867
by offering to receive the same to him and he

John Williams
Shriff

Refused.

Of the long believe, from the evidence,
that the captain sent the child
in a hollow log, not to conceal it
surely, but to give her time to escape it.
Then they will find her captain's

Refused

of the very house a reason all
stands as if whether the child was
paid for the purpose of concealing
the fact of its being alive or dead
whom whom they will a spirit -

Of the very house from the window
that the child in question was a
white child & had no negro blood in
it they will acquit.

State
is
E A Benton

Instructions

Refused

Before the day can find the defendant
guilty, the state must prove that the
defendant ^{or endeavor to hide or conceal} hid the child in a well known
place ~~with the design & intention~~ to conceal it ^{secretly}, so as that it
might not be known whether the child
was born alive or not. & unless the day
believe that the defendant did design
to conceal it with for that purpose
they will acquit.

State

14

Boston

Gifts Instructions

If the jury believe from the evidence that the Defendant Elizabeth Ann Bennett, in the County of Jefferson, State of Missouri, within three years prior to the 8th day of May 1847, was delivered of a child and that she the said Elizabeth Ann Bennett, then and there did endeavor privately and secretly to conceal the birth of said child so that it could not be known whether it was born alive or not the jury will find the defendant guilty and award her punishment in the penitentiary not less than two ^{years} nor more than seven years.

If the jury have a reasonable doubt of defendants guilt they will give her the benefit of the doubt and acquit.

We the jury find the defendant
not guilty of the crime ~~as~~ alleged
in the indictment

Attest
Jesse Byrne
Foreman