

Tofferson County Circuit Court  
Case # 105 - Criminal

Box

20

Fader

70

March 1868

State  
vs

Schmidt, John

Grand larceny

Stole mare belonging to  
D.F. McKee, depositions

State of Missouri }  
County of Jefferson } ss

The charge against  
The examination of John Schmidt of the  
County of Jefferson taken before me Geo. W. Sublett one of  
The Justices of the Peace within and for the County of Jefferson  
aforesaid on the 25<sup>th</sup> day of Feb 1868 the said John Schmidt  
being charged before me with Grand Larceny by  
stealing a Light Gray Mare belonging to D. F. McKee  
~~He the said John Schmidt upon his Examination now~~  
~~taken before me says,~~ - D. F. McKee of lawful  
age being produced and sworn on his oath  
states, - that on the night of the 20<sup>th</sup> of Feb-  
ruary 1868, a Gray Mare belonging to me  
was stolen out of my stable or Lot, in  
Jefferson County Missouri, - I next morn-  
ing went on the hunt of said mare, to  
Victoria, found some fresh horse tracks,  
that I took to be her, - I went on by  
William Huskey's, and on enquiring of him  
at Victoria  
^ he told me, a man passed by his House  
that morning about 3 O'Clock, leading  
a gray mare, - he did not think she had  
any saddle on, - I went on to Hillsboro  
and there I saw some men who told  
me, they had come from the directions of  
Big Springs, & that they had met a man  
about 8 O'Clock that morning riding  
a gray mare, - I went on the St. Louis  
Road and at Poland's, black Smith  
shop ~~Smith~~ he told me, a man passed  
there that morning about Sun up with  
a gray mare without a saddle & old bridle  
He said the man that had her was a German & spoke

I <sup>have</sup> English,  
1 I then went on to St. Louis, making  
inquiry & still hearing of the mare as  
I went along. - At St. Louis, I gave a  
description of the Mare to the Police &  
next morning I went to several Livery  
Stables, and finally to a Livery Stable  
on fifth Street, and there I found  
the said Gray Mare and the prisoner  
John Schmidt with her. - I spoke to  
Schmidt (as I knew him before) says I,  
"how did you come here, - he said I walked,  
I replied - you walked? - No says he,  
I rode that gray mare, - I said, did  
you take my gray mare out of my stable,  
& he said no, I didn't take her, - He  
said come here, I took me aside & said  
I will pay you all expenses & more to  
let me go, - I told him no, - He  
then said another man took the mare,  
I brought <sup>her</sup> to him - and he was to sell  
her, - (He first said) give him ten dollars,  
- He then said divide the money, - He  
told me several times that he had been  
trying to sell the mare at the Livery  
Stable, - He said he had been offered  
\$3 dollars for the mare - but he asked a  
hundred, - But, if he had known she  
was my mare & that I was after him  
he would have taken \$33, or \$20, - or  
he would have went off & left her  
without selling her, - I am the owner  
of the mare, she is worth a hundred dollars.

Cross examination, - I reside near the Rail road  
in this County - My stable is about a 100  
yards from my Dwelling House, - I saw  
the mare, I think on Thursday before she  
was stolen, - I cant say positively whether  
she was in the lot the night she was  
stolen or not, - I may have seen her there  
several times that evening, but dont recollect  
looking at her that evening, - some  
times do my own feeding, & some times  
not. didnt feed her that evening my-  
self, - Dont remember of seeing her that  
evening, but am very confident she  
was there, - I rode the mare on Sun-  
day before last, I am certain I may have  
rode her several times since, but dont  
recollect, I have known the prisoner  
since the fall of 1861, - got acquainted  
with him at Benton Barracks, - we were then  
in the same Company together, as U.S. troops,  
remained in same Company together  
3 years & 3 months, - I went in as a Private  
& was promoted to first sergeant, The Defend-  
ant went in as a Private & remained so,  
- The prisoner ~~sustained~~ <sup>at his trial</sup> a good character  
as a soldier, - I then considered him honest,  
- I had not seen the prisoner about here  
for some 6 or 7 weeks, before I saw him with  
the mare in St. Louis, - Never knew him  
at any time to appear flighty in his mind  
- Re-examination - The prisoner ~~that~~ <sup>at his trial</sup> de-  
scribed the prisoner <sup>with the mare</sup> as having a sore foot,  
- one boot split, - The prisoner here has one

foot split, as if he had a sore foot, -  
subscribed & sworn to before } D. H. McKee  
me this 23<sup>rd</sup> day of February  
1868.

James Klepper, - Being produced &  
sworn says, - I reside with D. H.  
McKee, - I was there on Thursday last  
when his gray mare was stolen - I  
fed his horses that night - This gray  
mare was in the lot, & I put her in  
the stable & fed her, - I put rails up  
at the door, & next morning when I  
went to feed, the rails were taken out  
& the mare gone - I went with D. H.  
McKee to hunt the mare - we went first  
to Victoria & then to Hillsboro - We saw  
Wm. Huskey at Victoria & he said he saw  
that morning, <sup>about 3 o'clock</sup> a man leading a gray  
mare - He said the man was a German  
- We went to St. Louis & heard of the  
mare at several places on the road -  
We first went to the Police & described  
the mare, & next morning went round  
& looked among the Livery Stables, & we  
found the mare & the prisoner at a  
Livery stable, I think on 4<sup>th</sup> street - Mr.  
Kee asked the prisoner first how he came  
there, - He first said he walked & then said  
he rode, - and then pointed to mare,

and said he rode that mare. - He said  
another man fetched her to him, - & he  
was to sell her & the man was to give  
him \$10. - The man said he stole her. -  
I have known the mare for some time,  
she belongs to D. F. McKee, of Jefferson County  
Missouri, -

I - Never saw the prisoner until I saw  
him in St. Louis, - He appeared scared  
when he saw us. -

Sworn to & subscribed } James McKee  
before me this 25<sup>th</sup> day }  
of February 1868, }  
mark

James M. McKee,

Being sworn  
says, - I saw the prisoner, John Schmitt  
on Thursday last between D. F. McKee's  
& John McKee's, - He was about  $\frac{3}{4}$  of  
a mile from D. F. McKee's, - It was about  
one O' clock when I saw him, - He  
was sitting down in the road & had his  
right foot off, - I went within 4 or 5  
steps of him, - My best opinion is, that  
the prisoner is the same man I saw  
then, - I never saw him before as I know  
of. -

Sworn to & sub-  
scribed before  
me this 25<sup>th</sup>  
day of February  
1868,

James M. McKee

The foregoing being all the material testimony on part of the state -  
 The prisoner, John Schmidt, was by the Justice strictly informed of the nature of the charge made against him, and that he was at liberty to make a statement, without oath in regard to the offence charged, and to refuse to answer any question put to him, - the prisoner makes no other statement, except, he says he did not steal the mare.

John Schmidt

|                          |          |
|--------------------------|----------|
| Certs                    |          |
| Justice's fees           | cts.     |
| Warrant, —               | 33-      |
| Recognizance             | 33-      |
| Commitment               |          |
| 4 oaths —                | 20       |
| Writing testimony        | 2.75-    |
| Constables               |          |
| fees - serving warrant — | .75-     |
| For guarding prisoner,   | 1.00     |
| taking him to Jail       | 1.00     |
| Mileage                  | .33-     |
| Dinner for prisoner      | .30      |
|                          | <hr/>    |
|                          | \$ 8.25- |

State of ~~Missouri~~  
County of Jefferson

I, George W. Sublett, a Justice  
of the Peace within & for the County  
aforesaid, do certify that the said  
John Schmitt was brought before me  
and charged before me, with grand  
Larceny with Stealing a Hay mow  
the property of D. F. McKee, and that  
the said John Schmitt was distinctly  
informed by me of the charge made  
against him, and that he was at  
liberty to refuse to answer any  
question put to him, - and the  
examination of the said John Schmitt  
as also the information of the said  
D. F. McKee, James Klepper & George  
W. McKee, were by me taken and  
reduced to writing the day & year  
aforesaid.

Given under my hand this  
25 day of February 1868

Geo W Sublett  
Justice of the Peace

11 June 1868

2776

State

12,

John Schmidt

Charge of  
Grand Larceny

Testimony

Oriskany Dec 27 1868

De Henry  
Clerk

State of Missouri }  
County of Jefferson } ss

Be it remembered the 25<sup>th</sup> day of  
Feb 1868 at the County aforesaid D. F. Mc Kee James  
Klipper William Throup and James W. Mc Kee  
came before me a Justice of the Peace within and  
for the County aforesaid and in their proper  
persons acknowledged themselves indebted to the  
State of Missouri in the sum of Fifty dollars each  
to be levied of their goods and chattels lands and  
tenements upon condition that if they shall  
personally appear before the Circuit Court of said  
County on the first day of the next term thereof  
to be holden for the County of Jefferson then and there  
to testify and give evidence in behalf of the said  
State against a certain John Schmidt on a certain  
charge of Larceny whereunto the said John  
Schmidt is charged and shall not depart the  
said Court without leave then this recognition  
to be void otherwise of full force D. F. Mc Kee  
James Klipper  
William Throup

Approved this 25<sup>th</sup> day of Feb 1868  
Geo W. Sublett  
Justice of the Peace

Atas

15,

John Schmidt

Recognition

of Authors