

8698

No. _____

Supreme Court of Illinois

People

vs.

Richard T. Elkins

71641  7

Pleas before the circuit court of
Johnson county and State of Illinois
at a regular Term thereof held at
the court house in the Town of
Vienna on the 4th Monday in the
month of March AD 1856 the same
being the twenty fourth day of said
month —

Present Hon. William R Parrish judge
of the 3rd judicial circuit court in the
State of Illinois John A Logan prose-
cuting Attorney James F Fenney Sheriff
and Samuel Copland clerk —

The Sheriff returned into open court the
following list of grand jurors, to wit,
Lewis Wilhelm A. Auley D. W. Auley E. H. Eddard
Jones Garrett Pender William Sparris
U. L. Huggins Thomas Grissom James
Parrish Frank Webb William Frizzell
G. H. Harsely W. Barnwell Thomas Purrie
J. R. Campbell G. Utley William Slack
John Wiley Lucy Reynolds and
Daniel Simpson, of which
panel Lucy Reynolds was appointed
foreman and sworn in chief &
the others as members of the Inquest
after hearing a charge from John
A Logan retired to consider of their
presentments in and for the said Body
of the county of Johnson —

And after wards court on the 27th day
of March AD 1856, the following matter
was entered of record, to wit,
Thursday the 27th day of March 1856

the grand jury returned into court the
 following true bills of indictment, viz
 Among other true bills of indictments
 there and then returned as aforesaid
 the following was returned to wit,
 one indictment against Richard
W Elkins for an "assault to murder"
 (which said indictment was on or about
 the night of the 8th of March AD 1859,
 extracted and stolen from the files of
 the office, for which reason a copy
 thereof cannot be given.)
 And afterwards to wit on the day and
 year last aforesaid the following order
 appertaining to said cause was made
 and entered of record, to wit,

The People &c
 vs
 Richard W Elkins } assault to murder
 } ordered by the court
 } that the said

defendant in this cause be held to
 bail in the sum of Three hundred \$300.
 Dollars. and that a capias issue
 against him returnable at the
 next Term of this court.

And afterwards to wit,

At a circuit court begun and held
 at the court house in the Town of
 Vienna on the 3rd Monday in September
 AD 1856 the same being the 8th day
 of said month. Present the Hon,
 William S Parrish presiding judge
 of the 3rd judicial circuit of the
 State of Illinois - James S Finney

Sheriff W. of Allen States Attorney protem,
and Samuel Copland clerk -
The Sheriff returned into court the
following pannell of grand jurors, court
Wilson Brown, Richard W. Barton
A. Oxley Naamon Spartin H. W.
Percer Hugh Hicks W. H. Graves
J. P. Duncens Thomas Stone
James Lay L. W. Spiby W. J. Morris
A. D. Howel Joshua L. Simpson
Davis Wright W. J. Worley and
Samuel T. Brown. William H. Grave
was appointed foreman and sworn in
chief and the other sworn as members
of said grand jury and receiving
a charge returned to consider,

the Sheriff returned into court the
following pannell of petit jurors
court - Thomas J. Kerley J. P. Spike
A. J. Kerley Blewit Beim John Trout
V. F. Cannon Edward Dooly Joel
Hubois M. Seaggins Hiram Casey
Andrew Spartin Joseph Costly
Peter Wilhelm Whitson File Garret
Pender W. L. Carter W. L. Huggins
Abram Peeler Daniel Simpson
Jacob Peeler Stephen Gill James
Harper Jesse Swinn and William
H. Evans After which together
with other things the following order
was made and entered of record, viz -
The People vs
Richard Y. Elkins } Assault to murder

on this day came the States attorney
and entered a motion for a continuance
which motion was sustained by the
court and the cause ordered to stand
continued, untill the next Term of this
court & this Monday the 8th day of
September A.D. 1856

And afterwards to wit, at the circuit
court began and held at the court
house in the Town of Vienna on the
3rd Monday in the month of March
1857. the same being the 28th day
of said month -

Present the Hon William K Parrish
presiding judge of the 3rd judicial
circuit in the State of Illinois
J. B. Crawford prosecuting attorney
Daniel C Chapman Sheriff and
Samuel Copleand clerk -

the Sheriff returned into court the
following pannel of grand jurors
to wit, W. D. Deans James Arley
John Sporgan Amel Dodge
Thomas Grissome J. T. Smith
Joel P Woodsides Lemuel Vaughn
William A Shelton John C Whitesides
William Helm Josiah Throgmorton
Spotton Carter John Travis Daniel
Simpson Gabriel Utley L. B Cox
A. D. Howel and Joel Dupois -

W. D. Deans was appointed foreman
and sworn in chief and the others
as members of the grand Inquest &
after receiving a charge retired to consider
etc -

after which the Sheriff returned into court the following panel of Petit jurors to wit,

John Stewart Miles H
Burklowe John M Gray Michael
Richards W A Watkins Daniel
Deminger Daniel Gurley Newant
Grissome L Pruitt S H Miller
W. L. Huggins Gowen Harris H. L. Span-
gram N. B. Kentro Richard Denterton
William M. Mahan Calvin S. Pearce
D. M. M. Bridg Thomas M. Demworth
Grenville Wise Henry Gold
John Hoaks M. Scoggins and John
M. Oliver

after which the following order was made and entered of record among other things - to wit - Wednesday March 25, 1857 -

The People vs Assault to Murder
Richard M. Ellings vs Now on this day
came the people
by M. C. Crawford their attorney and
the defendant being three times solemnly
called came not but made default
It is ordered by the court that the
recognizance herein be forfeited and
scire facias is awarded returnable
to the next Term of the court, and after-
wards came the defendant to wit, on the
day and date of aforesaid, and upon
the reading and filing of an affidavit
by the defendant, he was ordered &

entered of record that the forfeiture herein taken be set aside, and the recognizance herein be reinstated and the cause continued until the next Term of this court -

And Whereas afterwards to wit - At a circuit court begun and held at the court house in the Town of Vienna county of Johnson and State of Illinois on the 17th day of August A.D. 1857, the same being the 3rd Monday in said month - present the Hon^{ble} William B Parrish Sole Judge of the 3rd judicial circuit and presiding Judge of said county - Mourse C Crowsford States Attorney Daniel C Chapman Sheriff and Samuel Copland clerks

The Sheriff returned into court the following pannel of ~~Jurors~~ Jurors (viz) William J Sharp Lewis Wright Wilson Brown Daniel Simpson G. P. Sullivan Lewis Cummins M. P. Fort W. J. Davidson W. J. Bridges Samuel W. Cannon John Hay Henry Anderson James Emerson James Crider W. J. Grace Thomas P. Ballowe James F. Lee Sampson D. Doore Amos Cummins Charles F. Fair R. V. Gurley Franklin H. Culver and Frederick Graves Jr.

And the Sheriff returned into court the following pannel of Grand Jurors -

(twit), Jesse Hunter George Turner Jacob
Peter W L Carter D. D. Thomas Bra
Horrell A. E Francis James Whitehead
John Stock H L Lambert James Farley
John C Belmore Henry Throgmorton
John Strife William T Jones William H
Bridger Richard G Walker S C Kentfro
James Smith and A. J. Lasley.

William T Jones was appointed fore-
man and sworn in chief and the others
as members and after receiving a charge
retired to consider &c.

Said afterwards twit on Tuesday the 18th
day of August 1837 the same being
the second day of said Term the
following cause together with others
was set for trial viz—

The People vs
Richard G Elkins } Assault to Murder

ordered by the
court that an attachment issue
for Jonas Kettner as a defaulting
Witness for the people returnable
Instantly - And now on this day
came the people by Crawford States
Attorney and the defendant in his
proper person and pleads not guilty
to the charge in the indictment herein
filed. And issue being joined thereupon
came the following jury twit -
Daniel Simpson Charles F Fair

N. J. Davidson William J. Sharp
Amos Cummings Wilson Brown
John May William J. Grace Lewis
Cummings S. D. Poore James Edmon-
son and James F. Spence who being
selected tried and sworn after hearing
the evidence advice herein and argu-
ment of counsel retired to consider of
their verdict, and after due delibera-
tion and consultation returned into
court the following true verdict "viz."
"We the jury find the defendant
guilty and fix the time for which he
shall be confined in the Penitentiary
at one year - Whereupon the
defendant enters his motion for a
new trial and in arrest of judgement
And upon Argument of counsel and
due deliberation of the court, the
motion is overruled, the defendant
being three times solemnly called came not
but makes default, it is ordered that
a forfeiture of his recognizance and
scifa be awarded, and a Capias ordered
to issue without Bail or main Prize,
to have him before our next circuit
court hear judgement and execution
of the Law pronounced upon the
verdict of the court, & cause continued
&c -

And afterwards to wit, on the 30th
day of August A.D. 1837, capias issued
directed to the Sheriff of said
county to execute in the words &

figures following to wit,

State of Illinois }
Johnson County } The people of the
State of Illinois
To the Sheriff of said

county Greeting-

We command you to take the body of Richard Y. Elkins and him safely keep without Bail or mainprize so provide that he abide the judgment of the Johnson Circuit Court for the crime of "an Assault to murder," of which he has been convicted at the September Term of said court A.D. 1837 - and that you have his body before our Johnson Circuit Court to be commenced and holden at the court house in the Town of Vienna and on the first day of said Term on the 4th Monday in March next - And have you then and there this writ -

Witness Samuel Copland Clerk
of said court and the judicial
Seal Seal of said court
at office in Vienna this 30th
day of August A.D. 1837 -

Seal

Samuel Copland clk

on the back of said writ was indorsed
as follows to wit,

The People &c }
Richard Y. Elkins } Capias

And afterwards writ on the 19th day
of January 1858, the aforesaid writ
was returned endorsed as follows court,
"Executed the within by arresting the
within named defendant and deliver-
ing him over to the jailor of Union
county this 19th day of January 1858 -
W. C. Chapman Shff
Johnson County Ills

Miles 40 x 10	\$4,00
Arresting	1,00
keeping in custody	
2 day under guard	15,00
	<u>\$20,00</u>

And Whereas afterwards writ on the
29th day of January 1858, the Defend-
ant together with his securities went
before William K Parrish judge of
the Third judicial circuit in and
for the State of Illinois, and entered
into recognizance in the words and
figures following writ.

Be it remembered that on this
the 29th day of January A D 1858
Richard G Elkins William H Davis William
B Smith and John H Bridges personally
came before William K Parrish judge
of the Third judicial circuit of the
State of Illinois and jointly and
severally acknowledged themselves to
owe and be indebted to the people
of the State of Illinois the sum of

Two Thousand five hundred dollars
lawfull money of the United States
to be made and levied of their
respective goods and chattels lands
and tenements for the use of the
people aforesaid. Yet upon this
condition that if the said Richard
Y Elkins shall make default in the
performances of the condition under
written -

The condition of this recognizance
is such that Whereas the said Richard
Y Elkins was tried and convicted at
the August Term of the Johnson
circuit court of the State of Illinois
AD 1857 of and for the crime of an assault
to Murder and whereas the said Richard
Y Elkins escaped and fled after his said
conviction - and before sentence and
judgement of said circuit court was
pronounced upon said conviction
and Whereas the said Richard Y
Elkins was arrested by the Sheriff
of said county of Johnson by virtue
of a capias commanding the arrest
and detention of the said Richard
Y Elkins so that he should be
brought into the said Johnson
circuit court at the March Term
thereof to be commenced and
held at the court house in the
Town of Vienna on the fourth
Monday in March AD 1858, on the
first day thereof - to here sentence &

receive the judgement of said circuit
court upon the conviction aforesaid
And Whereas the said Richard Y. Watkins
has been brought before me William K.
Parrish Judge of the third judicial
circuit of the State of Illinois
under and by virtue of writ of
Habeas Corpus, and praying to be
let to Bail and after hearing the
cause of Imprisonment and detainer
It was considered by said Judge
that the said Richard Y. Watkins might
be admitted to Bail in the sum
of Two thousand and five hundred
dollars, conditioned for the appear-
ance of the said "Richard Y. Watkins
at the next Term of the Johnson
circuit court in and for the county
of Johnson and State of Illinois
to be commenced and holden at
Vernon on the fourth Monday of
March A.D. 1858 on the first day of
said Term to hear sentence and
receive the judgement of said court
upon said conviction for said crime
of an assault to Murder
Now if the said Richard Y. Watkins
shall personally be and appear before
the circuit court in and for the county
of Johnson and State of Illinois
on the first day of the next Term
thereof to be commenced and holden
at the court house in Vernon

on the fourth Monday of March 1838, and hear the sentence and receive the judgement of said court for the crime of An Assault to Murder, Whereof the said Richard Y Elkins stands convicted by said court then the said recognizance to be void otherwise to remain in full force and Virtue in Law

R. Y Elkins Seal

Wm Y Davis Seal

W B Smith Seal

J H^{his} Bridges Seal
marks

State of Illinois & William K Parrish
Judge of the third
Judicial circuit of the State of
Illinois do hereby certify that the fore-
going Indictment was taken and
acknowledged before me and
approved by me on this 29th day of
January A D 1838. William K Parrish
Judge 3rd Judicial circuit
State of Illinois

And on the back of said bond was endorsed
as follows -

Filed this 8th

day of February

1838

Samuel Copeland

And Whereas afterwards court -
At a circuit court began and holden

at the court house in the Town of Vienna
on the fourth Monday in the month of
March 1858 the same being the 23rd day
of said month presents the Hon. William
K Parrish Judge of the third judicial
circuit and presiding Judge of the
Johnson Circuit Court in the State
of Illinois - W. S. Crawford prosecuting
Attorney H. C. Chapman Sheriff and
Samuel Campbell clerk.

The Sheriff returned into court the
following panel of grand jurors
to wit, George Horsely Nathan
Trizzell Joseph Matthews James A. Veach
S. D. Howel G. J. Kerley William Hunter
Robert Henard William Y. Davis
Frederick Graves William Huggins
John Gore William Burklowe
William H. Graves George Elkins
Ephraim Davis William Purrie
A. J. Davis and John C. Barnwell
William H. Graves was appointed
foreman and sworn in chief and the
others as members and receiving a
charge from the prosecuting attorney
retired to consider &c.

And the Sheriff returned
into court the following panel of
Petit jurors viz -
Joseph L. Thomas G. P. Sullivan A. J. Deing
Warren Grissom Hecckiah Lambert
Smith Barnett J. S. Rentfro James
Trenson Calvin Corsett Charles Benson

Riley Snider E. F. Francis Gilson Slack
Thomas L. Helm Andrew Caldwell
H. Taylor Abraham Miller Granville
Harwick John S. Toler Isaac Wise
Jackson Purrie Richard Peterson
Hegibiah Spencer Carroll Stroud
and Linsfield Shadrick

And afterwards to wit on Thursday
the 23rd day of March AD 1858. The
same being the fourth day of said
Term the following order appertaining
to said cause was made and
entered of record viz—

The people & c. }
 vs } Assault to murder
Richard G. Elkins } Now on this day came
 } the plaintiff by J. L.
 } Crawford their attorney and the
 } defendant by Allen his attorney
Whereupon the facts being made known
to the court of the papers in this
cause having been extracted from the
files of the office: It is ordered by the
court that this cause stand continued
under advisement until the next
Term of this court

And afterwards to wit at the August
Term of the Johnson Circuit court
AD 1858. the following proceedings
appears to us of record viz—

At a Circuit court began and
held at the court house in the Town

of Vermilion County Illinois on the
6th Monday in the month of August
1858 the same being the 16th day of
said month present the Hon. William
K Parrish Judge of the third judicial
circuit of the State of Illinois J. C.
Crawford prosecuting Attorney Daniel
C Chapman Sheriff and Samuel Cope
and Clerk —

The Sheriff returned into court
the following panel of grand
jurors viz —

James M Clark Alfred
Rushin Thomas Jones James Park
G. W. Poore Joseph Jones James Cley
Barnett Weaver John P. Dickins William
A Ring Isaac Bain R. W. Carlton
William Hoil Thomas Ballou Eli
Sporgan William C. Goddard Wilson
Shankle and Hiram C. Carson

The Sheriff returned into court the
following panel of Petit jurors viz —
James Whitehead Thomas B Hampton Elias
Lotten James G Helm John H Reed
L. L. Spadden John Spathis James
Stewart Overton Standly William West-
brooke John C Albright H. C Oakley
James Sulp James Slack R. J Walker
William Peterson Sanders Brown A. B
Oliver William Purrie Park Whitaker
Henry Beggs William Simpson Thomas
Sharp Sen,
And afterwards court on the 16th day

of august AD 1858 the same being
the first day of said Term the
following proceedings was had relative
to the aforesaid case viz -

The people
vs
Richard Y Elkins } Assault to murder

And afterward to wit at the March
Term of the Johnson Circuit court
AD 1859. the following proceedings and
records was made and entered of
record

At a regular Term of the John Circuit
court AD 1859 began and held at
the court house in the Vienna on
Monday the fourteenth day of March
AD 1859 - present the Hon William K
Parrish presiding judge of the 26th
Judicial circuit of the State of
Illinois Edward V Pierce prosecuting
Attorney Samuel Copleland clerk and
J. C. Kirkham Sheriff

The Sheriff returned into court the
following pannel of grand jurors
to wit, John H Bulner Absolom
Nichols Henry G Lawrence William
Brill C. W. McCoy J. D. Woodsides
Samuel Cummins Richard Elkins
John Palmer Thomas Statcup
William Y Davis W. S. Walker J. C. Hobbs
Bradford Bridges W. A. Warner
Asa D Cardwell A. S. Ross & Joseph

James - John W. Louver was appointed
foreman and sworn in chief and
the others as members of the Inquest
and after receiving a charge retired
to consider of their presentments.

The Sheriff returned into court the
following panel of Petit Jurors
Court, C. J. Bridges William Robertson
W. A. Barnwell Clark Hancock
W. D. Deans Brown Laurender
R. Y. Hurley Lewis Cummins L. D. Craig
John Reggo Charles Benson
Samuel W. Howel Walter Wilsford
John L. Keister W. D. Harper
George D. Johnson George Pendergrass
H. P. Sharp A. D. Howel J. E. Smith
Elisha Boytt Fountain Miller
J. Heggins and David Duncan

And afterwards to wit on the day
of the date aforesaid the following
~~order~~ relative to the above and
aforesaid cause was made and
Entered of Record viz -

The People vs
^{vs} Richard Y. Elkins } Assault to Murder
ordered by the
court that this
cause stand continued until the
next Term of this court -

And whereat afterwards to wit,

At the August Term of the Johnson
circuit court A.D. 1859. the following
proceedings and records appear to
us of Record - to wit,

At a circuit court begun and held
at the court house in the Town of
Vernon on the first Monday in the
month of August in the year Eighteen
hundred and fifty nine the same being
the first day of said month
Present the Hon W. J. Allen presiding
judge in and for the 26th Judicial
Circuit in the State of Illinois Edward
V. Pierce prosecuting Attorney
J. C. Kirkham Sheriff and Samuel
Copland clerk

The Sheriff returned into
court the following panel of
Grand jurors viz -
William J. Wise William Bonit
Joel Debois Ephraim Davis
Joseph L. Thomas Reed Smoot
Henry Howel Thornton Joseph Hesketh
ah Spencer B. T. Brown Hiram C
Carson Patton Carter Davis Wright
J. A. Gillespie H. G. Harpending
Oratio Humphries Hiram J. Worley
John Care and Lewis Wise
William J. Wise was appointed foreman
of the grand Inquest and after taking
the several oaths required by law
receiving a charge retired to consider
of their presentments -

The Sheriff returned into court the following pannel of Petit Jurors to-wit, H. Ragdale Thomas Evans A. J. Sharp Abraham Miller Giles Taylor G. B. Beach Zachariah McFree B. Y. Reburn William Spounce Stephen Strife John C. Pender John Beem A. W. Carter Joseph A. Newton William Perkins J. R. McCorrle H. T. Bridges William Roundtree Alfred Gurley John Oliver David McQueen Naamon Spartain G. D. Sullivan and Green B. Moore

And afterwards to-wit on the 4th day of August A.D. 1859 the same being the 4th day of said Term among other things the following order and proceedings was had and entered of record relative to the aforesaid case to-wit,

The people vs
^{vs} Richard G. Elkins } Assault to Murder

Now on this day comes the plaintiff by E. V. Pierce their Attorney and the defendant by his Attorney, and it appearing that the defendant had been tried and convicted previous to this term of the court, in the above cause and sentence not having been passed on him, on account of the Indictment in the above cause having been stolen from the clerks office

the plaintiffs Attorney enters a motion
that the defendant be brought into
court to hear the verdict and have
sentence pronounced on him in the
absence of a record which motion
was by the court overruled and the
cause continued &c.

State of Illinois }
Johnson County } I Samuel Copland Clerk
of the circuit court within and for the
county and State of aforesaid do hereby
certify that the foregoing is true full and
perfect transcript of all the proceedings
in and appertaining to the said cause
of record in my office so far as
relates to the said R. Y. Ellins and that
the accompanying papers marked "A,"
"B," and "C," are the only papers in my
office appertaining to the foregoing entitled
cause that was not on or about the
night of the 8th day of March 1838, together
with the bill of indictment in the above
entitled cause extracted and stolen
from the files of my office.

In testimony whereof I have hereunto
set my hand and affixed the
judicial seal of my office at
Vienna on this 29th day of
September 1837.

Samuel Copland Clerk

The people vs
Richard Perkins

Record

Exhibit
"A"

Filed Nov. 18th 1859 -
N. Johnston M

State of Illinois }
Supreme Court } ss. Of the November Term
in the year of our Lord
one thousand eight
hundred and fifty-nine.

To the Hon's John D. Catton, Chief Justice
Sidney Breese and Pinkney H. Walker, Associate
Justices, Judges of the said Supreme Court.

The People of the State of Illinois
by Edward V. Pierce, State's attorney for
the 26th Judicial Circuit of the State of
Illinois, who prosecutes in behalf of the
said people, would most respectfully
represent to this Honorable Court that
on the 4th Monday in the month of March
A.D. 1856 the same being the 24th day of said
month at the Circuit Court of Johnson
County and State of Illinois at a regular
term thereof held at the Court house in
the town of Vienna, there was present
Hon. W. H. Parrish, Judge of the 3rd Judicial
Circuit of the State of Illinois, John A. Logan
prosecuting attorney, James M. Finney, Sheriff
and Samuel Copeland, clerk, whereupon
the sheriff returned into open Court the
following list of Grand Jurors, to wit, Lewis
Wilhelm (1) A. J. Ashley (2) P. W. Beley (3) Esth.
Jones (4) Garrett Bender (5) William Morris (6)
U. L. Suggins (7) Thomas Grissome (8) James

Barrish (9) Frank Webb (10) William Frierell (11)
J. Horsely (12) W. Barnwell (13) Thomas Murrie (14)
J. R. Campbell (15) G. Utley (16) William Slack (17)
John Wiley (18) J. Reynolds (19) and Daniel
Simpson (20) of which panel Frey Reynolds
was appointed foreman and was sworn
in chief and the others as members of
the inquest, who after being charged
retired to consider of their presentments

And your petitioner would further
show that afterwards to wit on the
27th day of March A.D. 1856, being the 4th
day of the said term of the said court
the following matter was entered of record
in the said Johnson Circuit Court, to wit,
"Thursday the 27th day of March 1856 the
"Grand Jury returned into open court the
"following true bills of indictment, viz
Among other true bills of indictment
then and there returned as aforesaid
the following was returned to wit one
indictment against Richard G. Elkins
for an assault to Murder. And that
afterwards to wit on the day and year last
aforesaid the sheriff was ordered by the
Court to take bail in the sum of \$300⁰⁰/₁₀₀
And afterwards to wit at a circuit court
begun and held at the Court house in

the town of Vienna on the 2nd Monday
in September A^d 1836 - the same being
the 8th day of said month on motion of
the States attorney the Cause was continued
until the next term of the said Johnson
Circuit Court. And afterwards to wit
at a Circuit Court begun and held at the
Court in the town of Vienna on the 3rd
Monday in the month of March A^d 1837
the same being the 23rd day of said month
there was present the Hon. W. K. Parrish
presiding Judge of the 3rd Judicial Circuit
of the State of Illinois M. C. Crawford States
atly. D. C. Chapman, Sheriff, and Samuel
Copeland, clerk; and on Wednesday 25th
March A^d 1837 at said regular term of the
said Johnson Circuit Court the following
order was made and entered of record in
said Case

The People &c }
vs } Assault to Murder
Richard G. Elkins }

Now on this day came the people
by M. C. Crawford their attorney and the
defendant being three times solemnly
called came not but made default.
It is ordered by the Court that the recognizance
herein be forfeited and *fi fa* and *Capias*

is awarded returnable to the next term of this Court. And afterwards came the defendant to wit on the day and year aforesaid and upon the reading and filing of an affidavit by the defendant it was ordered and entered of record that the forfeiture herein taken be set aside and the recognisance herein be reinstated and the Cause continued until the next term of this Court.

And your petitioner would further show that whereas afterwards to wit at a Circuit Court begun and held at the Court house in the town of Vienna, County of Johnson and State of Illinois on the 17th day of August A.D. 1837 - the same being the third Monday in said month, there was present Hon. W. K. Parrish, Judge of the 3^d Judicial Circuit, Ch. C. Crawford, States atty., D. C. Chapman, Sheriff and Samuel Copeland, Clerk, and that on Tuesday the 18th day of August A.D. 1837 - the same being the second day of said term the following Cause together with others was set for trial, viz: -

The People vs }
vs. } Assault to Murder
Richard G. Elkins }

Ordered by the Court that an attachment

issue for Jonas Heltner as a defaulting witness
for the people returnable instanter. And
now on this day came the people by Crawford
States atty and the defendank in his proper
person and pleads not guilty to the charge
in the indictment herein filed - and
issue being joined thereupon came the
following jurors of the jury to wit Daniel
Simpson (1) Charles F. Fain (2) M. J. Davidson (3)
William J. Sharp (4) Amos Cummins (5) Wilson
Brown (6) John May (7) Wm J. Grace (8) Lewis
Cummins (9) P. D. Moore (10) James Edmonson (11)
and James F. McKee (12) who being selected
tried and sworn after hearing the evidence
advice herein and argument of Counsel
retired to consider of their verdict and after
due deliberation and consultation re-
turned into Court the following true verdict
viz: "We the jury find the defendank
guilty and fix the time for which he
shall be confined in the Penitentiary
at one year." Whereupon the defendank enters
his motion for a new trial and in arrest of
judgment. - And upon argument of Counsel
and due deliberation of the Court, the motion
is overruled - the defendank being three
times solemnly called came not but
makes default. It is ordered that a forfeiture

of his recognizance and *se ja* be awarded
and a *Capias* ordered to issue without Bail
or mainprize to have him before our next
Circuit Court to hear the judgment and
execution of the law pronounced upon
the verdict of the Court and Cause continued.

And your petitioner would further show
that afterwards to wit on the 20th day of Aug^r
A.D. 1857, a *Capias* issued directed to the
sheriff of said County to execute and that
on the 19th day of January A.D. 1858, the said
writ of *Capias* was returned endorsed
as follows, to wit:—"Executed the within
by arresting the within named defendant
and delivering him over to the jailor of
Union County this 19th day of January A.D.
1858. D. C. Chapman, sheriff, Johnson Co. Ill.

And whereas afterwards to wit on the 29th
day of January A.D. 1858 the defendant ap=
peared by virtue of a writ of "Habeas Corpus"
before the Hon. William H. Parrish, Judge
of the third Judicial Circuit and was
admitted to Bail in the sum of Two
thousand five hundred dollars, Con=
ditioned for the appearance of the said
Richard G. Elkins at the next term of the
Johnson Circuit Court in and for the
County of Johnson and State of Illinois

to be commenced and holden at Vienna
on the fourth Monday of March A.D. 1838 on
the first day of said term to hear sentence
and receive the judgment of said Court
upon said conviction for said crime
of an assault to Murder, whereof he
stands convicted. And afterwards
to wit at a circuit Court begun and holden
at the Court-house in the town of Vienna
on the 4th Monday in the month of March
A.D. 1838 the same being the 22nd day of said
month there was present Hon. W. H. Parrish
presiding Judge, M. C. Crawford, State's
att'y, D. C. Chapman, sheriff and Samuel
Copeland, clerk, and that on Thursday
the 25th day of March A.D. 1838, the same
being the fourth day of said term the
following order appertaining to said cause
was made and entered of record in said
Johnson Circuit Court, viz:—

The People vs }
vs } Assault to Murder.
Richard G. Elkins }

Now on this day came the people
by M. C. Crawford their attorney and the
defendant by Allen his attorney whereupon
the facts being made known to the
Court of the papers in this cause having

been extracted from the files of the office
It is ordered by the Court that this Cause
stand continued under advisement until
the next term of this Court. And afterwards
to wit at the August term of the Johnson
Circuit Court, held at Vienna on the
16th day of August A.D. 1838 - the same
being the first day of said term the
following order was made and entered
of record in this case.

The People vs }
vs } Assault to Murder
Richard G. Elkins }

Continued

And that afterwards at a regular
term of the Johnson Circuit Court A.D.
1839, begun and held at the Court house
in the town of Vienna on Monday the
14th day of March A.D. 1839, there was
present Hon. W. K. Parrish, presiding
Judge; Edward V. Pierce, States Attorney
Sam'l Copeland, Clerk and J. C. Kirkham
sheriff, and that on the day of the date
aforesaid the following order was made
and entered of record in this case

The People vs }
vs } Assault to Murder
Richard G. Elkins }

Ordered by the Court that this cause stand continued until the next term of this Court. And your petitioner would further represent unto this Hon. Court that at the Johnson Circuit Court begun and held at the Court house in the town of Vienna on the 1st Monday in the month of August A.D. 1839 - the same being the 1st day of said month there was present Hon. William J. Allen, Judge of the 26th Judicial Circuit and presiding Judge of the Johnson Circuit Court; Edward V. Pierce, prosecuting attorney, F. C. Kirkham, Sheriff and Samuel Copeland, Clerk and that on the 4th day of August A.D. 1839, the same being the 4th day of said term among other things the following order and proceedings was had and entered of record relative to this case in said Johnson Circuit Court viz:

The People &c }
vs } Assault to Murder.
Richard G. Elkins }

And now on this day came the people by Edward V. Pierce States attorney, as well the said defendant by his attorney, and it appearing that the defendant had been tried and

Convicted previous to this term of the Court in the above cause and sentence not having been passed on him on account of the indictment in the above cause having been stolen from the clerk's office. thereupon the People by Edward V. Pierce, State's attorney enters a motion that the defendant be brought into Court to hear the verdict of the jury read and have the judgment and sentence of the Court pronounced on him in the absence of the indictment, which motion was by the Court overruled and the cause continued &c

And your petitioner would further represent to the Court here that the foregoing statement will more at large appear by reference to a certified copy of the records of said case in the Johnson Circuit Court under the seal of said Court marked exhibit "A" and now to the Court here shown and prayed to be taken as a part of this petition.

And your petitioner would further show to the Court that the verdict of the jury is in full force and has not been satisfied or reversed and that

the cause still remains on the docket
in the Johnson Circuit Court and that
it is the duty of the said William J. Allen
so being Judge of the 26th Judicial Circuit
in the State of Illinois to cause to be
brought before him the said Richard G.
Elkins to hear the sentence and receive
the judgment of the said Circuit Court
of Johnson County for the crime of an
assault to Murder whereof the said
Richard G. Elkins stands convicted
by the said Court and over which said
Court the said William J. Allen presides
as Judge as by law he is required. And
your petitioner would further represent
that notwithstanding the premises
with which ^{the said Hon. William J. Allen} ~~he~~ is well acquainted
he has without any reasonable cause
whatever hitherto refused and still does
refuse to the evil example of all others
likewise offending. Your petitioner
therefore prays that a writ of Mandamus
may issue from this Hon. Court directed
to the said William J. Allen, so being
Judge of the 26th Judicial Circuit in the
State of Illinois requiring him to cause
to be brought before him as presiding
Judge of the Johnson Circuit Court

the said Richard G. Elkins to hear the sentence
and receive the judgement of said court
for the crime of an assault to murder
whereof the said Richard G. Elkins stands
convicted by said court, and as in
duty bound your petitioner will ever
pray &c

Edward V. Pierce
States attorney
26th Judicial Circuit

State of Illinois
Supreme Court 3rd Grand Division
Nov Term AD 1859

This affiant Edward V. Pierce States
attorney for the 26th Judicial Cir-
cuit of the State of Illinois being
just duly sworn says that the
matter and things set forth in
the above petition are true in
substance and in fact, as he
truly believes

Edward V. Pierce

sworn to & subscribed before

Nov 18th Nov 1859

N. Johnston M

November Term
Supreme Court
Third Grand Division

The People &c by
Edward V. Pierce
State's atty for the
- 26th - Judicial Circuit

vs
Hon. Wm. J. Allen
Judge

Petition for
Mandamus

Filed Nov. 18. 1859
N. Johnston Clk

Supreme Court }
Third Grand Division } State of Illinois
November Term 1839.

The People &c by }
Edward V. Pierce } Petition
States atty 26th Judicial } for
Circuit vs }
Hon. Wm J. Allen } Mandamus
Judge of said Judicial }
Circuit }

On Friday the 18th day of
November A.D. 1839, being the fourth
day of said term of this Court, I, William
J. Allen do hereby enter my appearance
waive notice and alternative writ
in the above entitled Cause.

William J. Allen
Jury 26th Judicial Circuit

No 70

The People &c.
by Edward V. Pierce

vs

W. J. Allen

Petition for Mandamus

Appearance

Filed Nov. 18. 1859

A. Johnston clk

70 ~~70~~

Proposed by Peon
States Atty

Hon. W. J. Allen

8698

Motion for
Nevada

Not awarded