

Rodaway County Circuit Court  
Circuit - Criminal  
Term - Aug 1860

Box 5 File 112

STATE

Box 17 File 3

<sup>v</sup>  
LINN (A slave belonging to Uriah Graves)

Shooting with intent to kill - 24 Aug 1860 - Victim William Kitchener

LINN WAS PROTECTING HIS MELON PATCH.  
Volume 8 pg. 176

WITNESSES:

Richmond Good

Allen Butler

Martin Chamness

Thomas A. Ray

Joshua Bishop

Perry H. Talbot, Physician

SEE Box 16 File 82 - See Box 5 Folder 83

Examination of witnesses produced and sworn in the case <sup>in</sup> which the State of Missouri complains of one Leim, a Colored Boy belonging to Uriah Graves, on charge of shooting with intent to kill William Kitcher.

Richmond Good of lawful age being duly sworn, deposes and says -

on last Friday evening Mr William Kitcher was shot on Mr Uriah Graves farm in Toddaway County, it was in the evening a little after dark. Mr Allen Butler, Yates Cox & myself were with him when he was shot. Mr Kitcher had just crossed the fence & had been over but a short time when he was shot. I was off some 10 or 15 steps when he was shot. in a very short time he spoke and said he was shot. I think he was some 15 or 20 steps from the place when the report of the gun appeared to me. I saw the flash of the gun. the flash was pointing to the direction of Kitcher. the moon was shining. I suppose one could have been able to distinguish a snar from any other object at the distance of 50 yards <sup>if it was in open ground</sup> it was a bright clear moon light night.

I went near to when the gun was fired and I saw ~~I thought~~ the shape of a man sitting in the shade of the corn. I was something near a rod from the object. I thought at the time that it was a man. I thought I saw a gun in his hands. the object was about the spot when the gun was fired. He was sitting under a bunch of corn or weeds. it was at the edge of the opening in which Kitcher was shot.

I could not tell whether it was a negro or white person I saw in the shade. I suppose there was a watermelon patch in the open space. when I went down after Kitcher was shot I heard some person say shoot. after we were gone we heard persons hollowing. at about that place. I have seen the prisoner since, have a gun in his possession now that once, he makes his home at Mr. W. Graves' but I do not know whom he belongs to. I suppose it was a shot gun that fired from the number of shot projected. I think it was a rifle that I saw in the prisoner's possession. It was from 150 to 200 yards from Mr. Graves' house to the place where the shooting took place.

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I think there was corn between the house and the patch, I am not certain.

Gates Cox was hit with the shot at the same time.

Cross Examined: by Mr. Herren

It was on last Friday evening that the shooting took place. Mr. Kitchin Mr. Butler Mr. Cox & myself were together. It was after dark - some <sup>1 1/2</sup> hours after sun down. It was 150 or 200 yards from the house. we went there to get watermelons.

we knew that a watermelon patch was there.

I and Mr. Kitchin had been there previous to that night of the shooting. we had got a few melons out of the patch one or two nights previous.

I could see the shape of a man in the shade but do not know who it was. I have seen the Boy Seize the prisoners here and do not know that he was the one that shot on that night. we were all in the enclosure together. Mr. Kitchin was before I was

off some 10 or 15 steps from them - we were ~~not~~ going <sup>in the direction of</sup> ~~to~~ the place where the gun fired - was some 10 or 15 steps from the place where the gun was fired.

I had a small stick in my hands when we went into the patch. I saw Mr. Butler pick up one on the road before we got to the patch. I do not know whether the others had sticks or not.

Richmond <sup>his</sup> Good  
mark

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Subscribed and sworn to before me this 29<sup>th</sup> day  
of August A. D. 1860. Mary Thompson  
Justice of the Peace

Allen Butler of lawful age being duly  
sworn, deposes and says.

I was present when Mr. <sup>Mr.</sup> Kitcher was  
shot on last Friday night. The shooting  
was on Mr. Wiah Crans' place in this  
county. I was 15 or 20 feet from  
him when he was shot. We were all  
in a direct line going towards where  
the gun was fired. I was behind of the  
three. In about a minute after the  
gun fired Kitcher said he was shot  
pretty badly. We were some 30 or 40  
yards from the place where the gun  
was fired. It was a little after dark when  
Mr. Kitcher was shot. The moon was shining  
brightly. I could have distinguished a man  
from any other object 50 yards, I think.  
I saw some person at the place where  
the gun was fired, but I could not say  
who it was. The <sup>moon</sup> shone on the barrel  
of the gun & I saw it. I was in a  
rod or two of the person. I could not  
tell whether it was <sup>a</sup> white or a Black

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person I saw him move but the shade of the weeds or corn prevented me from seeing who it was.

Some person hollowed shoot Seim, shoot 3 or 4 different times. the person <sup>hol</sup> lowed before I went up and afterward too. There was a watermelon patch between us & when the gun was fired. I never heard Seim the prisoner, say that he would shoot any person if they came into the melon patch. There were two of us shot beside Kitchen, myself & Cox - Kitchen was shot in 6 places - one in the side of the neck - one through ~~each~~ <sup>each</sup> shoulder one in his left breast & one each leg. Cox & myself twice each

Cross Examined

There was only one firing - the wounds that I & Cox received were not <sup>an</sup> dangerous only hurt a little. I am acquainted with Seim the prisoner. I did not see him there that night to know him. Mr. Kitchen was before, leading the crowd. I heard no conversation until after the gun fired - after the gun fired I heard some person say shoot Seim shoot. the shooting was some 200 yard from Mr. Graves' house. Richmond Good, Yates Cox Wm. Kitchen & myself

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were the only persons in our crowd.  
we went there to get watermelons  
It was not more than  $\frac{3}{4}$  of an hour after  
dark. I had been in that patch before  
and so was Mr. Kitcher, Mr. Kitcher &  
I had been in there once previous. there  
was no person with Kitcher & me the  
time we were in. I think it was  
a week or more that we were in before  
I had no stick or club when I went into  
the patch. I think Mr. Good had one. I do  
not recollect that Kitcher had any. I  
think it was Dallas Graves' voice that said  
shoot Linn, shoot.

Reexamination

the <sup>place where the</sup> shooting took place was in the di-  
rection of Mr. Graves' house.

Allen, Butler

Subscribed and sworn to before me the 29<sup>th</sup> day  
of August A. D. 1866

Henry Thompson

Justice of the Peace

Martin Chamness being duly sworn  
deposes and says.

I was with Mr. Ray when he arrested the  
Prisoner Linn. he remarked directly after  
after we started with him that he would  
not have been in this difficulty had it  
not been for Mr. Bishop, that <sup>there</sup> Mr. Graham

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said you did shoot ~~him~~, he said he did shoot but he ~~did~~ not want to hurt any person. he then commenced telling that he saw some persons coming up towards the patch he started out there with his gun, he thought when he saw them coming in the patch that he would not shoot. he said he was badly scared and would have run if he had had a chance. then the thought struck him that Mr Bishop had told him that he would be too big a coward to shoot, so he banged away. he then braced & run to the house, but he did not know whether he had hurt any body. when Mr Ray arrested him he asked what for, he told him for this shooting scrape he then said he would go. when they first saw these persons coming to the patch he told Mr Bishop that gun would not knock the flint, he said that Bishop fixed the lock for him. I do not recollect whether Simon mentioned Kitchen's name or not.

#### Cross Examination

The conversation with the prisoner took place on Monday evening after he was arrested by the officers, and he told what he did say without any threats or rewards, voluntarily and that he did not intend to shoot any



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body or hurt any body. he said that the shooting he did was on last Friday night: he stated that he saw the party that came into the patch have Clubs and he was afraid of them. he said he thought of running but he was afraid they would catch him.

M R Chambers

Subscribed and sworn to before me this 29<sup>th</sup> day of August A. D. 1860

Henry Thompson  
Justice of the Peace

Thomas A. Ray of lawful age being duly sworn deposes and says -

after I had arrested him and we had got some 200 yards, the prisoner seized without he said he expected this & rewards or threats voluntarily, said that he would not have been in this scrape had it not been for Mr Bishop. Mr Arch Graham then said you did shoot, he said he did not deny shooting, then went on to tell us why he said they had been in the patch before and left their clubs all sticking up in the patch for a sign to show him if he interrupted they would maul him. he then said he was in the shade of the

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fence corner, he saw them coming through the crack of the fence, they came tolerably near before they got over in the inside. It looked to him that there was about a dozen of them after they got over, he thought they all had clubs on their shoulders. he began to tremble as soon as he saw there were so many & was scared, and i'woud have run but there was no crack large enough for him to get through while he was thinking of running, he thought of what Mr Bishop told him about being a coward, & he would not have shot had it not been for that & he banged away, he said he did not intend to hurt any body.

Thos A Ray

Subscribed and sworn to before me this  
29<sup>th</sup> day of August A. D. 1860  
Hays Thompson  
Justice of the Peace

Coshua Bishop being duly sworn deposes and says.

on last Friday evening I went to Mr Uriah Graves' farm was away with a team, when he came home, his wife told him about some boys having been in his melon patch through <sup>the cause of</sup> that day, after he got his work done up, he got his

P. 10. His gun down for the purpose of wiping  
it out. he stated that if the boys come  
into his patch that night he would  
blister some of their arses. I made light  
of it & made light of his gun. I saw  
no more of it nor did not see him load  
his gun when ~~the~~ time come I went  
off to bed. some time in the night I  
thought I heard the crack of his gun &  
I heard the screams of his wife that had  
shot. I got up out of the bed and Dallas Mr.  
Graves' son got up also, & Dallas & the negro  
woman went down to the patch.

#### Cross Examination

Mr. Uriah Graves was not at home that night  
neither was any others of the white portion  
of his family except his son Dallas <sup>and a small boy</sup>. He went  
to bed quite early & I went to bed some 8 or 9  
oclock - it was some time after I went to bed  
Linn's wife called to Dallas & me & they went  
down to the patch. I have been acquainted with  
the prisoner a year & a half and I have always  
known him to be a peaceable negro. I have  
been working for Mr. Graves off & on for some  
3 months.

#### re-examination

I saw Linn in company with his wife &  
Dallas when they came back at the gate.

Jessee Bishop

Subscribed and sworn to before me this  
29<sup>th</sup> day of August A. D. 1860.

Henry Thompson  
Justice of the Peace

P. H. Lalbott, of lawful age being duly sworn depose and says.

I am a physician and surgeon. I have been practicing some 15 years. I profess to be acquainted with principles of surgery. I was called to attend William Kitchen last Friday night. It was in the early part of the night. I found him to some extent prostrated. I found him coughing slightly & expectorating some blood. I found him with wounds made with shot about the size of Turkey shot or the next size less - not certain which - one shot about  $2\frac{1}{2}$  or 3 inches above the knee ~~and~~ half way between the center of the leg and the inner edge of the thigh. I probed that about  $\frac{3}{4}$  of an inch to find the ~~Ball~~ <sup>Ball</sup> it was impacted or had changed its course so that it could <sup>not</sup> be found. in either of which conditions we are not justified in cutting down, or dilating the wound for the purpose of extraction.

I found one wound near the point of the left shoulder within an inch of its outer extremity, I made no examination by probing that wound considering it a wound of no importance.

The third wound I found between the supra-axillary artery and the Cephalic vein -

A wound I did not think I was justified in probing, for fear of causing too much inflammation. I state that that wound is rather of a serious character for two reasons, <sup>1st.</sup> that a ball after striking the human flesh seldom takes a direct course.

2. That the sloughing may open the axillary artery, causing death <sup>by</sup> hemorrhage

p. 12. the fourth wound I found about 2 inches above  
the right nipple. penetrating the chest  
into the lungs. It was not safe to probe  
that wound, for ~~three~~ <sup>more</sup> reasons. first, it would  
it would be likely to cause hemorrhage  
& 2<sup>d</sup>. there was no use of it for the shot  
could not be extracted if found. 3<sup>d</sup> it  
would let in the air between the ribs &  
the lungs & cause the latter to collapse.  
I also found two more slight flesh wounds.  
I have seen the patient, Kitcher, 3 times,  
the last time on last evening. & I could  
not <sup>wish</sup> for him to be in a better condition  
considering his wounds, ~~as was the case by~~  
~~the~~ In a word I consider the wounds dangerous  
and may or may not produce death. I  
~~think~~ <sup>think</sup> that those wounds were gun shot  
wounds.

Lerry, G. L. Abbott

Subscribed and sworn to before me this 29<sup>th</sup>  
day of August A. D. 1860

Henry Thompson  
Justice of the Peace

State of Missouri }  
County of Modaway } 38'

I Henry Thompson  
Justice of the Peace in and for both Townships  
County and State aforesaid do certify

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That the within and foregoing examination of the witnesses, in the case of the State of Missouri against one Linn, slave of Wrial Garco was reduced to writing subscribed and sworn to in my presence

Given under my hand this 30<sup>th</sup> day  
of August A.D. 1860 Henry Thompson  
Justice of the Peace

Examination  
of

Witnesses

State of Missouri  
vs

John A. ...

of  
Wash. Graves

State of Missouri }  
County of Madawson } 88

Be it remembered, that on the 30<sup>th</sup> day of August A. D. 1860 Richard Good, Allen Butler, Joshua Bishop, M. R. Chambers, Thomas A. Ray, P. H. Talbot

personally came before me, one of the justices of the peace for said county and, <sup>severally</sup> acknowledged themselves to owe the state of Missouri the sum of one hundred dollars, to be levied of their goods and chattels, lands and tenements, to the use of the state, if default be not made in the condition following; which condition is, that if they, the said Richard Good, Allen Butler, Joshua Bishop, M. R. Chambers, Thomas A. Ray, P. H. Talbot,

shall personally appear, at the next term of circuit court, to be holden in and for said county, on the five day of the term thereof, to give testimony on behalf the state, and the truth to say touching such matters as may there and there require of them, and not depart the court without leave, then this recognizance shall be void and of no effect, otherwise to remain



in full force and virtue in law.

Richard <sup>his</sup> God

Allen Butler <sup>mark</sup>

Jesha Bishop

M R Chamneys

Thos & Ray

State of Michigan

Isk Peck. Wm

Simon Stare

1860

State of Missouri }  
County of Hodaway } 58.

The State of Missouri, to the justice of the  
County of Holt: Greeting;

Whereas complaint has been made before  
me, a justice of the Peace for said county;  
upon the oath of Allen Butler, that one  
Lima a colored boy and slave belonging to  
or in the employ of one Uriah Graves, late  
of the county of Hodaway, State of Missouri, did  
on the 24<sup>th</sup> day of August A.D. 1860 on purpose  
and of Malice aforethought shoot at, with  
a deadly weapon, to wit with a shot gun  
loaded with leaden balls and did then  
and there and by means of the said shooting  
dangerously wound one William Kitcher  
with the intent to kill the said William  
Kitcher to kill.

And whereas the said Lima, a colored boy and  
slave, <sup>for</sup> in the employ of Uriah Graves, was  
brought before me upon a warrant duly  
issued upon the oath of Allen Butler  
and has been examined by me, on such  
charge, and required to give bail in the  
sum of one thousand dollars, for his  
appearance before the circuit court of  
said county, on the first day of the next  
term thereof; which requisition he has  
failed to comply with; and there being no bail  
in this (Hodaway County) You are therefore

commanded to receive the said Simon  
a colored boy ~~and slave~~ <sup>being</sup> brought on in  
the employ of Ulrich Graves, into your  
custody, in the jail of the county, afore-  
said; there to be and remain until he be  
discharged by due course of law.

Given under my hand this 30<sup>th</sup>

day of August A. D. 1860

Alonso Thompson

Justice of the Peace

The within named prisoner Linn is to be admitted to  
bail on giving a good and sufficient bond for one thou-  
sand dollars

Given under my hand this 30 day of August  
A.D. 1860  
Hongo Thompson Justice of the Peace

Writ of Habeas Corpus  
State of Missouri  
vs  
Linn, Slave  
Bail \$1000  
1860

I Executed the within Writ by delivering the within  
name Slave Linn to the Jailor of Adaway Co Mo  
This October the 29th day A.D. 1860

R. J. Emerson Sheriff Adaway  
County Missouri  
By Smith & Dubin D. J.

State of Missouri Plaintiff  
County of Modaway

vs  
One Simon Deft

August 27<sup>th</sup> A.D. 1860. This day personally appeared Allen Butler, who upon oath states that he has reason to believe and does believe, that One Simon, a colored boy and Slave belonging to, or in the employ of Ulrich Graves old at the county, and State aforesaid, on or about, the 24<sup>th</sup> day of August, A.D. 1860 on purpose and of Malice aforethought, shot at, with a deadly weapon, to wit. with a Shot gun, loaded with leaden balls, and did then and there, and by means of the said shooting dangerously wound, one William Kitchen, with the intent him the said Wm Kitchen to kill;

Whereupon warrant issued to Thomas Roy, August 27<sup>th</sup> 1860, of 2<sup>d</sup> J<sup>r</sup> Township and delivered to said Thomas Roy, Constable of said Township, Returnable forthwith,

Warrant returned this 27<sup>th</sup> of August A.D. 1860. Executed by having the body of the said Simon, Slave of Ulrich Graves before the Justice

The Justice having heard the evidence, adjudges that said defendant give bail in the sum of one thousand dollars, to appear on the first day of the next <sup>term of</sup> circuit court for the county of Modaway

When and there to abide until discharged by due course of law. And the defendant refusing to give the bail required, the Justice doth order that said Ginn a Slave of Ureah Groves, be committed to Jail of the County of Holt (there being no jail in the County of Wodaway) until he give said security, or be discharged by due course of law.

Henry Thompson J. P.

The following is a list of the fees in the above cause

Justice Fees	One Writ	.50
	3 Subpoenas	.75
	1 off and Certificate	.25
	12 Oaths	.60
	Judgment	.35
	Writing Testimony and Certificates	5.00
	Procurator's fees	.50
	Writ of Commitment	.50
	Transcript and certificate to Clerk	2.00

Constable's Fees

Serving Warrant	1.00
12 Subpoenas	3.00
Guarding Prisoner four days	4.00
Three nights	3.00
2 days board and larders	1.00

A. D. Graham. Guarding one day and night	2.00
M. R. Pharesess Guarding two days	2.00
" " " " one night	1.00
A. Graham One days board of Prisoner	.40





cto 11

Transcript  
in case of  
State of Ohio  
vs  
Eric Gunn

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Filed Oct 19<sup>th</sup> 1880  
Jas. B. Burtin  
Clerk

Return to box No. 17

File No. 3

State of Mo  
Vs

Linn (A negro slave)

1860

