

0851

BOX:

109

FOLDER:

1170

DESCRIPTION:

Johnston, James

DATE:

08/10/83



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0052

56

Counsel,
Filed 10 day of Aug 1883
Pleads *Amquell*

Assault in the Third Degree.
(Section 219)

THE PEOPLE

vs.

P
James Johnson

Wm. Johnson

JOHN McKEON,
District Attorney.

A True Bill,

J. H. ...

Foreman.

August 29/83.

Wm. Johnson

James Johnson

0053

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

James Johnston

The Grand Jury of the City and County of New York by this indictment accuse

James Johnston

of the CRIME OF ASSAULT IN THE THIRD DEGREE, committed as follows :

The said *James Johnston*

late of the First Ward of the City of New York, in the County of New York aforesaid, on the *twenty first* day of *July* — in the year of our Lord one thousand eight hundred and eighty *three* — at the Ward, City and County aforesaid, in and upon the body of *Arthur E. Benham* in the peace of the said people then and there being, with force and arms, unlawfully did make an assault and *in* the said *Arthur E. Benham* did then and there unlawfully beat, wound and illtreat, to the great damage of the said *Arthur E. Benham* — against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN McKEON, District Attorney.

0054

Form 11.

Police Court—Third District, Halls of Justice.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

of No. 17 Premier aged 28 Arthur E. Benham Street,

on Saturday the 21st day of July being duly sworn, deposes and says, that

in the year 1883, at the City of New York, in the County of New York,
he was violently ASSAULTED and BEATEN by

James Johnson (now Lee)
who struck deponent in the face with a
large stone pitched in the face, cutting
deponent's face, while deponent was
in performance of his duty

without any justification on the part of the said assailant

Wherefore this deponent prays that the said assailant may be apprehended and bound to answer the
above assault, &c., and be dealt with according to law.

Sworn to before me, this 23rd
day of July 1883

Henry Ford

POLICE JUSTICE.

Arthur E. Benham

0855

Testimony in the
Case of
James Johnson
filed Aug.
11th.

0856

The People
vs.
James Johnson
Indictment for assault in the third degree.

Court of General Sessions, Part I
Refr.: Recorder Smyth. Aug. 29. 1883.
Arthur E. Kenham, sworn and examined
I am an officer of the police force of New York
of the Seventeenth precinct and was on duty
on the 21st of July; it was a Saturday or Sunday
I saw the prisoner on that day; he made
an assault upon me at ten o'clock at night
in the street. There is a large alley in First
St. near Bowery. There are gangs come there
do not belong to this place. Creating a
disturbance. There was an order issued by
the Superintendent to drive away this
gang or arrest them. This prisoner did
not belong there; he is in the habit of
coming in with the gang carrying in
beer and creating a disturbance in
the place. On the night of the 4th of July a
party came in there and assaulted and
beat a man named Mulley. This night of the
assault on me he was going in there (the
prisoner) and I ordered him away. He refused
to go and I shoved him back. As I shoved
him back he struck me with a two quart
stone pitcher full of beer cutting me
in four or five different places. The
third place I had sewed up. The place

0857

that I speak of is a boarding house; there is a tenement house in the rear; there are about 160 boarders there; there are some women living in the house. I don't know how many there are in the house. The prisoner lives at No 28 South Fifth Avenue; some distance from the place I spoke of. Cross Examined. The prisoner had been in the premises before I spoke to him. I did not speak to him first when he was leaving those premises. I was not standing in the hallway of those premises that night talking to two women. After he struck me with the pitcher I used a club on him, I clubbed him into submission to the station house. I don't know how many times I hit him. I am aware that I cut his head in different places. I did not break his right wrist. There was no shot fired to hit him; it did not hit him; the ambulance surgeon told me so. I fired a shot in the floor in the hallway. I was probably five or six feet from him at the time I fired the shot at him. There were a few parties around at the time this happened. He resisted arrest after he struck me with the pitcher and I clubbed him but not till then. He did not tell me the woman of the house sent him out for beer.

0858

Winnier A. Meyer sworn. I know the officer and the prisoner and saw them on the night of the 21st of July right before our office door No. 14 First St. I saw the officer walk over towards him as though to keep him from our place and I saw Johnson the prisoner raise a pitcher and strike him full force in the face. Up to that time had the officer struck him any blow? No sir, not until he was struck first. Cross Examined. When the prisoner struck the officer with the pitcher it was not broken, I am positive of that. I saw the officer's face cut. I suppose the pitcher was broken when the blow was struck. I saw one blow with the pitcher, and I saw the beer spill. I am positive that the officer was first struck with the pitcher. You saw the officer coming towards him? Yes sir.

James Johnson sworn and examined in his own behalf. I was at supper at Mrs. Muller's on the evening of the 21st of July; she asked me if I would not go down and get her a pint of beer. I went down stairs with the pitcher, and going out the officer was in the hallway talking to a couple of women. As soon as I got as far as he was he stopped me; he asked me if

0859

I did not know enough to keep away from around that neighborhood. I told him I was only going on an errand for a pint of beer across the way. I got the beer and returned back again. As soon as I got back he shoved me away and tried to upset the pitchen of beer. I tried to get out of his way; he followed me up and struck me on the shoulder and he struck me in the head two or three times and cut me every time; he hit the pitchen with his club while I raised it up. I did not strike the officer in the face with the whole pitchen at any time and did not strike him at all until after I had been clubbed. I was going into the entry to get out of his way when he fired a shot. I was in the hospital for treatment, and the physician probed my arm for the ball but could not find it. Bridget Malloy testified that she sent the prisoner out for beer and saw him covered with blood after the officer beat him. Augustus Gunther, Francis O'Connor and Lena Gunther were also sworn as witnesses who said that the officer clubbed the prisoner. The jury rendered a verdict of guilty with a recommendation to mercy. He was sent to the penitentiary three months and fined fifty dollars.

POOR QUALITY ORIGINAL

0060

BAILED,
 No. 1, by _____
 Residence _____ Street,
 No. 2, by _____
 Residence _____ Street,
 No. 3, by _____
 Residence _____ Street,
 No. 4, by _____
 Residence _____ Street.

Police Court No. 30 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Arthur E. Bonham

James Johnson

Frederick Battery

Offence, *Respect our Police officer*

Dated *July 23* 188*2*

Good Magistrate.

Beckman Officer.

_____ Clerk.

Witnesses, _____

No. _____ Street,

No. _____ Street,

No. _____ Street,

\$ *Five* TO ANSWER *W. J.*

William Hill

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named *James Johnson*

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of _____
Hundred Dollars, and be committed to the Warden and Keeper of the City Prison of the City of New York, until he
give such bail. *he legally discharged*

Dated *July 20* 188*2* *J. Henry Bond* Police Justice.

I have admitted the above named _____
to bail to answer by the undertaking hereto annexed.

Dated _____ 188 _____ Police Justice.

There being no sufficient cause to believe the within named _____
_____ guilty of the offence within mentioned, I order h to be discharged.

Dated _____ 188 _____ Police Justice.

0861

Sec. 198-200.

30

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

James Johnston being duly examined before the undersigned, according to law, on the annexed charge: and being informed that it is his right to make a statement in relation to the charge against him; that the statement is designed to enable him if he see fit to answer the charge and explain the facts alleged against him that he is at liberty to waive making a statement, and that his waiver cannot be used against him on the trial.

Question. What is your name?

Answer. James Johnston

Question. How old are you?

Answer. 28 years

Question. Where were you born?

Answer. New York

Question. Where do you live, and how long have you resided there?

Answer. 28 South 5th Avenue, about 7 weeks

Question. What is your business or profession?

Answer. machinist

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer. I am not guilty of the charge
I struck him in self defence
James Johnston
X
in own

Taken before me this 23
day of July 1888

Edmond Brock
Police Justice.