

0324

BOX:

176

FOLDER:

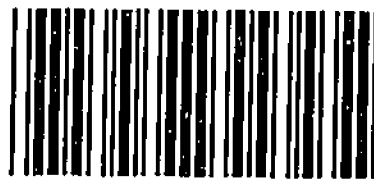
1781

DESCRIPTION:

Johnson, David

DATE:

05/25/85



1781

0325

No. 194

W.D.

Witnesses:

Counsel,

Filed 25th day of May 1885

Pleads,

W. H. Kelly, Jr.

17th THE PEOPLE

vs.

P.

David Johnson

Intoxication in the Third Degree.
and Robt. Gorman
Sections 498, 506, 528 and 5532

RANDOLPH B. MARTINE,
District Attorney.

A True Bill.

C. H. Hunt

Foreman

June 2, 1885

Pleads P. L.

City Prison 10 days.

0326

Police Court—2nd District.City and County } ss.:
of New York,of No. 27 Clinton Place Street, aged 20 years,
occupation Merchant being duly sworndeposes and says, that the premises No 38 Wovoster Street,
in the City and County aforesaid, the said being a Three story and
attic brick building and the back room of
the third floor of which was occupied by deponent as a Stationery office
and in which there was at the time no human being, by namewere BURGLARIOUSLY entered by means of forcibly unlocking
the padlock of the door facing the hallway
and leading into said back roomon the 12th day of May 1885 in the day time, and the
following property feloniously taken, stolen, and carried away, viz:a quantity of writing Pads and
one letter Copying book; altogether
of the value of five dollarsthe property of Deponent & E. B. Auld Co-partners and doing business
under the firm name Bulmer and Company
and deponent further says, that he has great cause to believe, and does believe, that the aforesaid

BURGLARY was committed and the aforesaid property taken, stolen, and carried away by

David Johnson (now here)for the reasons following, to wit: On said date, about the hour of
2:30 o'clock in the afternoon deponent locked
and securely fastened said door leading into
said Stationery office in said premises - that
deponent returned about one half hour afterwards
to said premises and found said defendant
in the act of leaving said premises and carrying
a bag filled with something in it on his shoulder
That deponent then and there examined what

0327

the said defendant had in the bag, and found therein a quantity of Pads, & a letter book. That defendant then took said defendant to said Stationery office in said premises and found that said office had been burglariously entered as aforesaid, and the afore-described property was missing - and defendant fully identifies the said pads and said letter book found in said defendant's possession as ^{defendant's} his property.

Sworn to before me } J. T. Bulmer
this 12th day of May 1885 }

[Signature]
Police Justice

Police Court _____ District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

vs.

Degree.

Burglary

Dated

188

Magistrate.

Officer.

Clerk.

Witnesses:

Committed in default of \$ _____ Bail.

Bailed by _____

No. _____ Street.

0328

Sec. 198-200

CITY AND COUNTY
OF NEW YORK, ss.

2nd District Police Court.

David Johnson being duly examined before the under-
signed, 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.

David Johnson

Question. How old are you?

Answer.

17 years

Question. Where were you born?

Answer.

Haverstraw N.Y.

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

Answer.

114 Sheriff street for about one year

Question. What is your business or profession?

Answer.

I have no business or profession

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 admit taking the Oads
but the door leading into the
Stationery office was open.*

David Johnson

Taken before me this

day of

11 Aug 1885

John J. [Signature] Police Justice.

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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

David Johnson
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of *five* 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.

Dated *May 12* 188*5* *W. P. Duffy* 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.

0330

Police Court Sevier District.

THE PEOPLE, & c,

ON THE COMPLAINT OF

John T. Bulmer
27 Clinton Place
3rd St. Meritt
David Johnson
Carney

1 _____
2 _____
3 _____
4 _____

Offence Murder

BAILED,

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street

No. 4, by _____

Residence _____ Street.

Dated May 12 188 5

Shiffy Magistrate.

Thomas Moran Officer.

8 Precinct.

Witnesses _____

No. _____ Street.

No. _____ Street.

No. _____ Street.

\$ 1.50 to answer _____

0331

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

David Johnson

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

David Johnson

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

The said David Johnson,

late of the Eighth Ward of the City of New York, in the County of New York, aforesaid, on the Twenty-day of May, in the year of our Lord one thousand eight hundred and eighty-five, with force and arms, at the Ward, City and County aforesaid, a certain building there situate, to wit: the room of one

John B. Palmer

feloniously and burglariously did break into and enter, with intent to commit some crime therein, to wit: with intent, the goods, chattels and personal property of the said

John B. Palmer

in the said room then and there being, then and there feloniously and burglariously to steal, take and carry away, 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.

0332

SECOND COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further accuse the said

David Johnson
of the CRIME OF Petit LARCENY, _____ committed as follows:

The said David Johnson,

late of the Ward, City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid,
at the Ward, City and County aforesaid, in the day time of the said day, with force and arms,

a Blank Book of the value of
three dollars, and twenty
quires of paper of the value
of twenty cents each quire,

of the goods, chattels and personal property of one John E. Butler,

in the Room of the said John E. Butler,

there situate, then and there being found, in the Room aforesaid, then and there
feloniously did steal, take and carry away, 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.

Charles D. P. Martin
District Attorney

0333

BOX:

176

FOLDER:

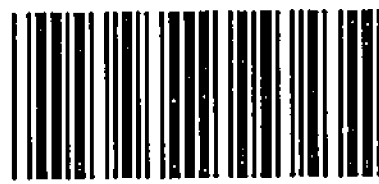
1781

DESCRIPTION:

Joyce, John

DATE:

05/13/85



1781

0334

BOX:

176

FOLDER:

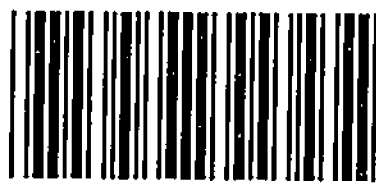
1781

DESCRIPTION:

O'Keefe, John

DATE:

05/13/85



1781

0335

50
Counsel, *McCallum*
Filed *13* day of *May* 1885
Pleads, *Not Guilty*
THE PEOPLE
vs. *John Joyce*
and *P*
John O'Keefe
RANDOLPH B. WARDLINE,
District Attorney.
21.
Not Guilty
A TRUE BILL.
22 May 1985 Foreman
No 2 plea & acquitted
570 1500
1885

Witnesses:
John O'Keefe
John Joyce
Grand Juror
Aug 9. 1887
Judge & Coroner (in charge)
Aug 13. S. N. Westhouse
No 1
25 years

0336

300
The People
vs.
John Joyce.

{ Court of General Sessions, Part 1.
Before Judge Gildersleeve.

Wednesday, June 29, 1887.

A Jury was empanelled.

The Court: You may swear the Jury, Mr Hall.

Mr Kellar: In this case, Your Honor, some short time ago the question of the plea which was entered on the 27th of December 1886 -- a plea of autre fois acquit was entered by the Defendant in this case and subsequent to that date a short time ago a demurrer was interposed to that plea by Asst. Dist. Atty. Purdy who argued the case before your Honor before whom the matter has since been. Now I ask the Court to dispose of that demurrer before any jury is sworn. I ask that that demurrer be dismissed, it is my request.

The Court: Is there a demurrer on file?

Mr Kellar: It was all taken down at the time in shorthand.

The Court: The minutes will show in Part II.

Mr Kellar: Yes sir.

The minutes of Part II were produced and the Clerk read them to the Court.

The Court: Mr Kellar, there don't seem to be any demurrer, I remember there was some talk about a demurrer but there is none on file with the papers.

Mr Kellar: A demurrer was dictated to the stenographer at the time

The Court: There is none there; if the District Attorney has neglected to file a demurrer you are now in the same position that you were when you entered your plea of a former acquittal.

Mr Kellar: Yes, but my contention would be this, I very frankly state to the Court, if the District Attorney demurred to

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the plea and your Honor overruled the demurrer, then my plea would stand and the defendant would be entitled to his discharge, or if your Honor sustained the demurrer that would prevent any further plea.

The Court: That don't seem to be the situation.

Mr. Kellar: Mr. Purdy dictated the demurrer to the stenographer.

The Court: Mr. Purdy had a great deal to say: the case was new to him, it was a very novel situation. When you speak of a demurrer, I do not remember finding anything with the papers. Now your proper course is to submit this legal question it seems to me: the District Attorney I apprehend, wont file a demurrer now, the minutes don't show any.

Asst. Dist. Atty. Bedford: I do not intend now that it has come to me to represent the People: there has never been in law a demurrer.

The Court: The question is whether you wish to file one.

Asst. dist. Atty. Bedford: No sir.

The Court: The only thing you can do for your client, Mr. Kellar, is to ----

Asst. Dist. Atty. Bedford: Mr. Kellar is going to take advantage of a technicality; if so, I must be technical. I ask that this case go over and in the meanwhile I will see Mr. Purdy and ask him to file that demurrer which was dictated by him to the stenographer.

The Court: He has got a right to take advantage of it now.

Mr. Kellar: It is one of those cases where Counsel would not be doing his duty to his client if he did not avail himself of every technicality proper under the law.

Asst. Dist. Atty. Bedford: I ask that the People file the demurrer

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nuck pro tunc.

Mr. Kellar: I agree.

The Court: I propose to make an end of this matter. It has been before the Court more than two years, it is all a waste of time. I understand furthermore, you cannot get the witnesses to convict this man and it will result in his liberty sooner or later. I am not fully advised about that. Do you understand about that, Mr. Kellar?

Mr. Kellar: Yes sir.

The Court: It is more than two years, and the witnesses cannot be had.

Mr. Kellar: I interposed this plea in order to protect every right this man had. The District Attorney's office has subpoenaed this man about twenty times during the pendency of this plea when the District Attorney could not possibly go to trial if the complainant were here. Here is an affidavit from the District Attorney's office filed to this effect, that the person served the complainant Williams with a subpoena in the above entitled action, upon William H. Williams, personally delivered to the said William H. Williams and at the same time that the said Williams informed this deponent that he did not know that he would appear in answer to the subpoena, etc. that he answered the subpoena so many times that he got troubled about coming. He lives in Newark beyond the jurisdiction of the Court.

The Court: I propose now to have this question disposed of. I propose to direct your client to plead and if he declines to plead that leaves the indictment against him, then you can move for a trial; if the People cannot try him and get

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the witnesses I will discharge him upon his own recognisance. Of course the People must make some effort to find out about this.

Mr Kellar: This man has been in jail two years.

The Court: You need not discuss that now. The plea that you have filed is a plea of former acquittal.

Mr Kellar: Yes sir.

The Court: Now it is for you to satisfy the Court and the Jury by introducing the record that the Defendant has been acquitted of the charge upon which he was arraigned.

Mr Kellar: This Jury is not sworn yet. I deny respectfully the jurisdiction of this Court to empanel a jury in this case upon the ground that inasmuch as under the order of the General Term of the Supreme Court of the 28th of June, 1886, no new trial having been ordered, this Court has no jurisdiction whatever.

The Court: I think there is something in the point, I will determine what to do about the case, I consulted my associates, we talked it over and we think that this is the most proper disposition we can make of it. In disposing of the case on that point, it seems pretty clear there cannot ordinarily be a new trial ordered unless one is ordered by the General Term. This is an unusual case; the motion is denied.

Mr Kellar: Your Honor will grant me an exception.

The Court: Yes. Now Mr Hall, swear the Jury.

The Jury was sworn, and the oath was administered as follows: Each of you to solemnly swear that you well and truly try this issue joined between the people of the State of New York and John Joyce on this plea of former

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1

acquittal of the crime charged against him in the indictment.

The Counsel for the Defendant in opening the case to the Jury said that on the 19th of May, 1886, the Defendant at the bar pleaded guilty to the crime of robbery in the first degree, second offence and on the 21st of May, 1886 was sentenced to twenty-five years in the State Prison on that plea. The Defendant appealed therefrom to the General Term of the Supreme Court and they set aside the conviction and the sentence, on what grounds it is immaterial, so far as you, Gentlemen of the Jury, are concerned.

The question before you is simply to decide whether this Defendant has been acquitted by the order of the General Term. It is a pure matter of law and you must render whatever verdict the Court instructs you to do.

The Court: Have you got a certified copy of the decision of the General Term?

Mr Kellar: Yes sir.

The Court: It will be admitted.

Asst. Dist. Atty. Bedford: Yes sir.

Edward Hall sworn and examined.

By Counsel. Q. Mr Hall, you are first Deputy Clerk of the Court of General Sessions.

A. Yes sir.

Q. In your capacity as Deputy Clerk have you in your possession an indictment against the Defendant John Joyce, charging him with robbery in the first degree, second offence.

A. Yes sir, May 13, 1885.

Q. Filed. A. Yes sir.

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Q. On the 19th of May, 1885, does it appear from the indictment that the Defendant pleaded guilty to the charge as laid in the indictment.

A. Yes sir.

Q. On the 21st of May 1885, does it appear that the sentence upon such plea was rendered of twenty-five years in the State Prison.

A. State Prison twenty-five years, but no date entered here

Q. It is on the front opposite the date.

A. Yes sir, May.

Q. On May 19, 1885, do you find according to the entries on the indictment a plea of guilty, entered by the Defendant.

A. May 19, 1885, the minutes will show it but the date is not entered on the indictment.

Q. On the 21st of May you find the sentence of twenty-five years in the State Prison.

A. Yes sir.

Mr. Kellar: I ask the District Attorney to admit that the John Joyce mentioned in this indictment and the John Joyce mentioned in the order of the General Term, are one and the same. Do you admit that?

Asst. Dist. Atty. Bedford: Yes.

Mr. Kellar: I offer in evidence the order of the General Term of date 28th of June 1886, marked Defendant's Exhibit A. That is the case, your Honor; I now simply submit it to the Court, I will not argue the matter. It is the first plea of guilty that ever was set aside by an Appellate Court, it is the first order of the kind that ever was entered as I understand by the General Term because in the cases where after the trial the General Term has invariably

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ordered a new trial: in this case it has remained silent. Now I will merely state this, that when I drew the order in this State I drew it believing that the General Term itself had no power under section 465 of the Code to order a new trial at all because its powers are limited under that section, and therefore the General Term of the Supreme Court had no power to order a new trial in this case because it did not fall within any of the provisions of section 465 -- in other words, it was the first plea of guilty ever set aside and there is no provision in our Code to meet a case of this nature; therefore I drew the order without ordering a new trial. His Honor, Judge Brady, marked on the original notice "two days" notice" and I went over and Judge Brady drew the order in its present form. My conviction is that the General Term had no power to order a new trial, and this Court cannot therefore take upon itself to go on with the trial in this case, first because no Court has any power to re-try and secondly, because this Court has no power certainly to re-try unless instructed so to do by the order of the General Term for the reason that the very moment that sentence is passed upon a party who has pleaded guilty, or has been convicted, that moment the jurisdiction of the General Sessions ended, so much so that a motion for a new trial could not be made in the Court of General Sessions after the sentence is once imposed, as in a case of murder in the first degree. Now under those circumstances I will, without further argument, submit the point and I ask your Honor to instruct the Jury that the plea now entered by the Defendant stand and the Defendant be discharged.

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The Court: Gentlemen of the Jury, this is a novel situation and seems to be entirely due to the very unusual action of the General Term of the Supreme Court to which all appeals from this Court go direct; and we propose to take the course already intimated giving the General Term an opportunity to straighten out the matter. Just what views they entertain in making this order of course this Court is not advised except from the character of the order itself. The points taken by the counsel seem to have considerable force, but the proceeding is so unusual I think it is important that the situation should be reviewed by the General Term, and it can only be done by taking the course now proposed. If I should sustain the views urged by Mr Kellar the matter would necessarily drop here. Now if subsequently the defendant is tried and convicted the whole matter can be taken to the General Term and any wrong that he sustained can be righted. I feel justified in taking this course; it is somewhat against my own convictions as to the law because I am disposed to agree with Mr Kellar because it is important that the preliminary question should be established. It is no hardship to the Defendant because he would be very well satisfied to take fifteen years in the State Prison. This is a pure question of law and with these remarks I advise you to find by your verdict that the plea of former acquittal submitted by the Defendant's Counsel is not true.

Counsel: Your Honor will grant me an exception to your Honor's charge on that point.

The Court: Yes.

The Clerk: Do you find the plea true or not true?

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The Court: You need not consult, Gentlemen of the Jury.

The Foreman: We find a verdict as directed by the Court, not true.

The Court: It seems to me Mr Kellar, you ought to have pleaded a former conviction.

Mr Kellar: I have the right to enter that plea now.

The Clerk: John Joyce, you are indicted for robbery in the first degree, second offence.

Mr Kellar: We plead a former conviction of the 19th of May, 1885.

The Court: You want to make your plea in writing and file it, it will have to stand over and be disposed of that way.

Mr Kellar: I will dispose of it to-morrow morning.

The Court: You had better put it in writing so that there will be no mistake about the language.

Mr Kellar: Is it very important that we should have the matter disposed of, your Honor.

The Court: You can make the plea now, I will make the ⁱⁿsame direction.

Mr Kellar: Is it understood to be in writing now, I will put it in writing during the day. The Defendant pleads a former conviction of the 19th of May, 1885, upon which conviction he was sentenced to twenty-five years in the State Prison on the 21st of May, 1885. I would ask your Honor now to try that plea right off.

The Court: Yes, certainly, right off. Now the evidence for the purpose of sustaining the plea of conviction will be the same as for sustaining the plea of acquittal.

Mr Kellar: Exactly, I do not think I will produce the order of the General Term upon that, simply produce the indictment.

0345

The Jury was sworn the second time to try the issue between the State of New York and John Joyce on his plea of former conviction of the crime charged against him in the indictment and a true verdict give according to the evidence.

Edward J. Hall sworn by the Court.

By Mr Kellar. Q. You are Deputy Clerk of the General Sessions.

A. Yes sir.

Q. In your capacity as such have you an indictment for robbery in the first degree, second offence against John Joyce

A. Yes sir.

Q. Do you find that on the 19th of May 1885, an entry of a plea of guilty to that indictment.

A. Yes sir.

Q. To robbery in the first degree as a second offence to the full indictment as drawn.

A. Yes sir.

Q. On the 21st of May, 1885, he was sentenced to twenty-five years in the State Prison under said conviction.

A. Yes sir.

Mr Kellar: I now offer again the order of the General Term and the District Attorney admits it.

Asst. Dist. Atty. Bedford: I admit it.

Mr Kellar: The 28th of June, 1886, and the District Attorney admits that the John Joyce mentioned in the order and in the indictment are one and the same. I submit the plea. Now I think your Honor will probably afterwards sustain it and say this plea is good.

The Court: You have identified the indictments, the one upon which he is now arraigned, you have got the record all right.

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Mr Kellar: Yes. The District Attorney will further admit that the indictment upon which the Defendant is now called upon to plead to is the same indictment upon which the Defendant formerly entered a plea of guilty on the 19th of May, 1885.

Asst. Dist. Atty. Bedford: Yes, that is right.

The Court: Well now, the Court holds that the plea of guilty having been set aside, the sentence having been set aside by the General Term, the Defendant is in the same situation that he was before he pleaded at all and he has never been in jeopardy. For that reason the Court advises you to find that the plea of conviction submitted by the Defendant is not true.

Mr Kellar: Your Honor will grant me an exception to the charge.

The Court: Yes.

Foreman: The Jury find that the plea is not true.

The Court: Now the Court directs the Defendant to plead not guilty to the indictment. (To the District Attorney.) Now you will want to find out about your witness. If there is no possibility of his appearing I will discharge the Defendant.

Mr Kellar: I deny the jurisdiction of the Court; the Defendant stands mute; the Court will order a plea of not guilty to be entered.

The Court: Yes.

Mr Kellar: Now I would ask that this case be put down for tomorrow.

The Court: To-morrow.

0347

Testimony in the
Case of
John Joyce
tried June 29 + finally
convicted August
15-1887.

TORN PAGE

0348

PARA 1
THE COURT ROOM IS IN THE SECOND STORY, AND FACING THE PARK.
If this Subpoena is disobeyed, an attachment will immediately issue.
Bring this Subpoena with you, and give it to the Officer at the Court Room door, that your attendance may be known.
[SEE OTHER SIDE FOR OTHER DIRECTIONS.]

SUBPOENA

FOR A WITNESS TO ATTEND THE

Court of General Sessions of the Peace.

The People of the State of New York,

To William H. Williams
of No. 93 Belleville Ave. Newark N.J.

WE COMMAND YOU, That, all business and excuses ceasing, you ^{GREETING:} appear in your proper person, before the Court of General Sessions of the Peace to be holden in and for the City and County of New York, at the Sessions Building in the Park of the said City, on the 31 day of Feb instant, at the hour of eleven in the forenoon of the same day, to testify the truth and give evidence in our behalf, against

in a case of Felony, whereof he stands indicted. And this you are not to omit, under the penalty of Two Hundred and Fifty Dollars.

WITNESS, Hon. FREDERICK SMYTH, Recorder of our said City, at the City Hall in our said City, the first Monday of March, in the year of our Lord 188

RANDOLPH B. MARTINE, *District Attorney.*

0349

COURT OF GENERAL SESSIONS.

-----X

The People

vs.

Robbery.

John Joyce

-----X

City and County of New York, SS:

John J. Carroll, being duly sworn deposes and says: I reside at 245 Clinton street in said city, and am a subpoena server in the Office of the District Attorney of the City and County of New York, and am over twenty-one years of age. On the 29th day of March, 1887, I called at No. 93 Bellevill Avenue, Newark, N.J. and personally served a subpoena in the above entitled action, a copy of which is hereto annexed, on William H. Williams, the complainant herein, personally, by delivering the same to and leaving it with the said William H. Williams in person. He acknowledged himself to be the said William H. Williams, the said complainant. Said Williams at that time informed me that he did not know whether he would appear in answer to the said subpoena, and that he had answered the subpoena sent him so often that he was sick and tired of coming to New York. At about three P.M. on the 30th day of June ult. I called at the same address, the residence of said complainant, and was informed by a woman representing herself as his wife, that he was not at home. She took the subpoena

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however, and promised to deliver it to him when he arrived. I informed her that whatever expenses might be incurred by said Williams in attending in obedience to said subpoena would be reimbursed him by the District Attorney's Office, to which she replied, all right, and again promised to give him the subpoena when he arrived. I called on the morning of July 2nd inst. at the said residence and again saw the woman, who represented herself as said Williams' wife, and was informed by her that she had as promised delivered the said subpoena to said Williams; that he had taken it, but had not said whether or no he would attend in obedience thereto. I asked her whether he had said anything concerning his purpose in that regard, she answered in the negative, stating that he never communicated to her anything of his business.

At about ten A.M. on the 5th inst. I called again at said residence, and upon ringing the bell a man came to the door whom I did not know. I asked him if said Williams was at home, he said he did not know and walked into the back room. Thereupon a young woman, who represented herself as the daughter of said Williams, and who so far as I could judge, was about nineteen years of age, came to me and said Williams, her father, was not at home; that he had gone out that morning, but where, she could not say. I asked her if she knew where his place of business was. She said she did not know; that sometimes he went to East Newark, and other places that she did not know. I asked her if she thought Williams would attend in obedience to said subpoena, she replied that she did

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not know, as he never told anything in the house about his business.

I am of opinion, from all the facts which came to my observation that it is not the intention of said William, to attend in obedience to said subpoena, and that information as to his whereabouts was withheld from me by those whom I saw in said residence, for the purpose of evading attendance thereon.

Sworn to before me this
6th day of July, 1887.

A. D. Barker
Notary Public
N. Y. C.

John J. Carroll

0352

THE PEOPLE OF THE STATE OF
NEW YORK,

against

John Jayce,

Officer
of
John Jayce,

RANDOLPH B. MARTINE,
DISTRICT ATTORNEY,
No. 32 CHAMBERS STREET,
NEW YORK CITY.

0353

Verdict of General Session.

The People vs.

John Joyce

Hyphen from Henry C.

" Hyphen -

Verdict -

The Defendant, of his counsel, Frank J. Allen, pleads that the Defendant has already been acquitted of the crime charged in this indictment, by the judgment of the Supreme Court of the State of New York, rendered at the City of New York, on the 18th. day of June, 1880, in that the said John Joyce, now at bar, is the same John Joyce who on the 18th. day of September, 1886, last, pleaded a plea of autrefois acquit to the indictment charging him with robbery in the first degree, as a second offence, and that said John Joyce on the 17th. day of May, 1885, he pleaded to said indictment in the Court of General Session of the Peace, in and for the City and County of New York, before Judge Cowles, and on the 21st. day of May, 1885, was sentenced under said plea, to twenty-five years State Prison; and that said plea of autrefois acquit, and said sentence were not

0354

Don't know
~

Don't know

1.

Don't know

Don't know

Don't know

Don't know
10.

0355

{ People vs. John Joyce
Robbery

To the Honorable Judge Gildersleeve
Esteemed Sir

I take the
liberty of addressing these few lines to
you it being the only mode of
communication open to me & which I
am sure you will not pass unnoticed
In May 1885 I was arrested in company
with one "O'Keefe" upon a charge
of robbery. In connection with the
afore mentioned I was indicted for
Robbery 1st deg. as a 2nd offence, was taken
to court & in the absence of my counsel
forced to trial. Through fear of getting
40 years with which I had been
threatened if I stood trial & was
convicted & knowing the caliber of
the lawyer assigned me whose first
words before being informed of
the nature of the ^{case} was the advice

0356

2

to plead guilty. I having but two evils to choose from choose the lesser one & entered a plea of guilty & was thereupon immediately sentenced by Judge Cowing to 25 years imprisonment!!

O'Keefe was discharged upon trial—
My lawyer Frank Kellee believing the proceedings to have been unconstitutional. Carried the case to the 9th term of the Supreme court where the judgement was reversed Judge Macomber writing the opinion & his two colleagues concurring—some terms of court have since elapsed & I have never been retried the prosecution never being ready when the case was called I have been confined in the Tombs for about 22 months— Can I be kept here forever? It is claimed by the

0357

3

prosecution that I am a notorious
criminal Your Honor can judge for
yourself whether my past life has
been that of a desperate law breaker
I am 25 years of age & have always toiled
hard to earn an honest living being
employed about the oyster boats lying
at the foot of west 10th st. In the year
1879 I was arrested upon a charge of
receiving stolen property. I received
the goods unconscious of the fact
of their being stolen I was indicted,
tried, convicted & sentenced to state prison
for 5 years. My commutation time
brought me home in 1882 - I immediately
began to search for work & under the
assumed name of John Riley (which
I for the purpose of hiding the disgrace
attendant to the name of an ex convict
took) was employed by a Mr Goldsmith

0358

4

Cattle dealer; as caretaker for stock upon the line of steamers plying between here & London, England, for ^{one} two years continuously I was steadily engaged by him. In Feb 1884 while under the influence of liquor (from which I had for the previous two years zealously abstained) I got into a quarrel was arrested & sentenced to one year in the Penitentiary for assault. That your Honor constitutes my whole experience with the law - Of the first charge I was morally innocent & of the assault charge I have nothing to say in extenuation - I deserved it. I have always worked hard & intend to always continue honest. A gentleman named Pomeroy P. Dickinson of #7 Nassau Street has promised me immediate employment upon my release.

0359

5

I hope your Honor will give this matter
your attention otherwise I shall
remain here forgotten by all except my
relations submitting my case to your
Honor's hands I shall patiently await
a reply

Your Humble Servant

John P. Joyce

Tombus

N.Y.

March 26th 1887

0360

COURT OF GENERAL SESSIONS.

The People

v.
John Joyce

OFFENCE

RANDOLPH B. MARTINE,
District Attorney.

City and County of New York fo:-
 John J. Carroll being
 duly sworn says:- That he resides at
 No. 245 Clinton Street, and is over 21
 years of age. That on the 29th day
 of March. 1887 he called at No. 93
 Bellevill Avenue in Newark in the
 State of New Jersey and personally served
 a subpoena in the above entitled action,
 a copy of which is hereto annexed, upon
 William H. Williams the complainant
 herein, personally, by delivering the
 same to and leaving it with the said
 William H. Williams in person.

At the same time the said Williams
 informed this deponent that he ^{did not} ~~would~~
~~know~~ if he would ~~not~~ appear in answer to the said
 subpoena, He further said that he
 had answered the subpoenas sent
 to him so often that he is sick
 and tired of coming to New York

Sworn to before me this
 30 day of March 1887

Rudolph L. Schauf John J. Carroll

COMMISSIONER OF DEEDS,
 N. Y. CITY & COUNTY.

0361

ACCOUNT OF GENERAL SESSIONS.

WALTON

John Force

MARSHALL HARRIS
District Attorney

0362

District Attorney's Office.

Part Two

PEOPLE

vs.

John Joyce

to Jan 31

Issued

Counsel

Jan 26

Off for Jan 26

By Order of
George S. [Signature]

0363

District Attorney's Office.

Part One

PEOPLE

vs.

John Joyce
July 6

All issued
June 29

Counsel notified
Per.

For July 15/07 by
agreement of all co-
couns. JSDP

0364

Court of General Sessions.

JUDGE'S CHAMBERS.

32 CHAMBERS STREET.

New York, 188

143-144 +

to 155

© Procedure

Removal of
judicial records to
Court of Sessions
and its Dept. of
Records and
Administration

0365

Court of General Sessions
Newport County
The People vs
against
John Joyce

Indictment for robbery in the
first degree, as a second offence.

The defendant John Joyce
pleads, that he has already
been convicted of the crime
charged in this indictment, by
the plea of guilty entered by him
on the 19th May 1885, and by
the judgment of the Court of General
Sessions of the Peace, in and for
the City of Newport, rendered at the
City of Newport, on the 21st May
1885, sentencing defendant to
25 years State Prison, under
and by virtue of said plea.
Newport City - June 29th 1887

Frank H. Keller

Att for defendant.

John Joyce

320 Broadway

New York City.

0366

Feb 29/17

Cart of General

Leserius w/Co.

The People's

Golden Joyce

Plan of
antefixi covered-

Franklin's
all for debt
22000000
w/Co.

Feb 29/17

0367

Monday Dec 29. 1886.

The Dist Atty reads & files an order of the Supreme Court of first department, wherein it sets forth that the plea of guilty of said deft to said indictment on the 19 day of May 1885 and judgment passed thereon by this Court on the 21 day of May 1886 - is vacated and set aside -

Thereupon the Dist Atty calls the defendant to the bar on the said indictment, & the Court directs the defendant to plead thereto.

The defendant by his Counsel J. F. Kelly - pleads that the deft has already been acquitted of the crime charged in this indictment by the judgment of the Supreme Court of the State of New York rendered at the City of N. Y. on the 28th day of June 1886.

0368

Ch. Y. General Sessions.

The People vs.
 [illegible]
 [illegible]

Defendant pleaded guilty
 to the indictment in this case
 to the Court, and was sentenced
 to the City and County State Prison.

~~The~~ appeal from this decision
 was taken and a writ of certiorari

was granted. The writ was entered
 in the General Term ~~that~~ ^{the} Court that

— in an order stated nothing about
 a new trial. It is now sought

to set the prisoner free. This cannot
 be done; This Court has no juris-

diction over the indictment or the
 sentence. The only remedy is to be

ordered by the Appellate Court.

It is not completely its juris-

diction, under sections 543, 544, 545
 of the Code of Criminal Procedure.

It is moreover clear that ^{the} General
 Term had no power to order a

new trial under section 465, which

limits the power of the Court to certain specific cases.

The order so entered was signed after notice to, and approval of the District Attorney, and the Defendant is now entitled to his absolute ^{dis}charge.

1. Purpose of
denumeration -
these plea stands
a deft entitled to
discharge.

no jurisdiction
2. To swear just.

2 branches

no jurisdiction

~~2~~ / cannot not see
a case here -

2. Effect of order.

Court of General Sessions

The People vs
 John Joyce
 impleaded vs

Statement of facts
 on Defendants motion
 to be allowed to withdraw
 his plea of guilty &
 substitute therefor, a
 plea of not guilty.

On the argument of the above motion
 the following were the principal facts
 which influenced the Court in denying
 Defendants motion.

John Joyce the Defendant appeared
 first to be a notorious criminal he
 having been indicted on different occasions
 for various different crimes.

The first indictment against him was
 filed April 21st 1874. Charging him
 with committing the crime of Burglary
 on this indictment he was convicted on
 his own confession & was sentenced to
 the Penitentiary for 2 years & 6 months.

The second indictment against him was filed
 July 12th 1877 charging him with committing
 the crime of Burglary a second time, on
 this indictment he was tried & discharged

✓ On a disagreement of the Jury.

✓ The third indictment against him was filed March 4th 1879 charging him with committing the crime of Grand Larceny from the person in the night time and feloniously receiving stolen goods with guilty knowledge. He was convicted by Jury on this indictment on the second count, viz: Receiving stolen goods with guilty knowledge and was sentenced by Judge Cowing to State Prison for the term of five years.

✓ The fourth indictment against him was filed Feb'y 26th 1884 charging him with committing the crime of Assault in the second degree. He pleaded guilty to assault in the 3rd degree and was sentenced to the Penitentiary for the term of one year. by Judge Cowing.

The fifth indictment ^{against him} being the one upon which the motion is made to substitute the plea of not guilty for the plea of guilty was filed May 13th 1885. charging him jointly

0372

with one John O'Keefe with committing the crime of Robbery in the first degree as a second offence. On this indictment the defendant Joyce was convicted on his own confession of the crime of Robbery in the first degree charged in the indictment as a second offence and was sentenced to State Prison 25 years.

It also appeared that Defendant Joyce had been arrested on various other occasions charged with committing crime & on various pretenses had alluded indictment

The indictment upon which this motion is predicated is the one filed May 13th 1885 charging the defendants John Joyce and John O'Keefe jointly with the crime of Robbery in the first degree and as against Joyce it was charged as a second offence.

On May 13th 1885 both defendants were arraigned to plead, and both entered a plea of not guilty.

Each appeared by his own counsel the defendant Joyce by Frank J. Kelley and the defendant O'Keefe by Isaac M. Delland.

and the defendants having each demanded a separate trial, both the cases ~~of~~^{were} set down for trial for May 15th 1885. The complainant being a non-resident residing in the State of New Jersey. On the account of the ~~say~~ complainant being a non-resident the case was set ~~for~~ down for May 15th peremptorily. On May 15th the case of Joyce was duly reached and regularly moved for trial by the district attorney when Joyce through his counsel Frank Keller moved for an adjournment without giving any legal or valid reason or excuse and the Court denied his motion. On this occasion the defendant Joyce's counsel stated to the Court that his client had no defence and was guilty as charged but urged the Court to let his client plead ^{guilty} to the indictment as a first offence assigning as a reason that the punishment when the crime was laid in the indictment as a second offence was necessarily so severe. The Court informed Mr Keller (Joyce's counsel) that his client was such a

notorious offender that it would, neither be proper or just to the people to accede to his request & therefor denied it.

After some further discussion the district attorney consented ^{that} the case be adjourned to May 19th peremptorily. The counsel ^{pro se} at the same time stipulating in open Court that upon the trial he would admit that the defendant Joyce had been indicted tried convicted & sentenced to a term of imprisonment in the State Prison for a felony as charged in the indictment requiring the people only to prove the Robbery.

On May 19th the district attorney moved the case against O'Keefe for trial, and while preparing to proceed with the case against O'Keefe the defendant Joyce voluntarily requested to be arraigned for the purpose of being a witness in favor of O'Keefe and withdrawing his plea of not guilty & substituting a plea of guilty. Thereupon the Court asked the defendant Joyce if he desired to plead guilty as charged in the indictment.

to which the defendant Joyce replied that he should like to plead guilty to the crime of Robbery in the first degree, as charged in the indictment but not to that part of the indictment which charged the second offence. The Court then informed the defendant Joyce that it would not accept a plea of guilty except as charged in the indictment. Thereupon the defendant informed ^{the} that Court that if he would not be permitted to plead guilty of the crime charged as a first offence he would plead guilty to the same as a second offence & did so. -

Defendant Joyce then gave evidence in favor of his codefendant O'Keefe denying that O'Keefe was present at the commission of the crime charged against them & O'Keefe was acquitted and the complainant left for his home in New Jersey.

Upon the same day and after Joyce had pleaded guilty as charged in the indictment his counsel Frank J. Keller came into Court and asked permission ~~to~~ for his

~~plea of guilty & substitute therefor~~
 a plea of not guilty.
 The Court informed Mr Keller Counsel
 for Joyce that under all the circumstances
 to grant his motion had to much
 the appearance of trifling with the
 Court & the administration of justice.
 especially as he had in open
 Court stipulated on the record that
 upon the trial he would concede
 that his client Joyce had passed a term
 of imprisonment for a felony as
 charged in the indictment and had
 repeatedly informed the Court that
 his client had no defence to
 the charge of Robbery and had
 urged the Court to permit him to
 plead to guilty to that crime as
 a first offence.

In fact the only contention between
 Mr Keller & the Court was whether
 Joyce should be permitted to
 plead guilty to the crime charged
 as a first or second offence.

The Court exercised the legal
 discretion belonging to it of denying
 Keller's motion to substitute a plea of not
 guilty for a plea of guilty interpreted voluntarily
 by the Court.

General Session
The People vs

John Joyce
Etal

Statement of facts
on motion by deft
Joyce to be allowed
to withdraw his plea
of guilty & substitute
therefor a plea of
not guilty

filed Mch 1. 1886.

Minutes of
Committee

0378

Police Court—Second District.CITY AND COUNTY } ss
OF NEW YORK,

William H. Williams
 of No. 93 Belleville Avenue, Newark, N.J., Aged 55 Years
 Occupation Carpenter being duly sworn, deposes and says, that on the
14th day of May 1885, at the North Ward of the City of New York,
 in the County of New York, was feloniously taken, stolen, and carried away from the person of de-
 ponent by force and violence, without his consent and against his will, the following property, viz:

One Gold watch and one gold chain
attached of the Value of eighty
dollars and good and lawful money
of the United States Consisting of
Silver Coins of divers denominations
and Values amounting to five
dollars; Altogether

of the value of Eighty five DOLLARS,
 the property of Deponent

and that this deponent has a probable cause to suspect, and does suspect, that the said property was
 feloniously taken, stolen, and carried away, by force and violence as aforesaid by

John Joyce & John O'Steen
(both now here) and another man who is
not yet arrested and whose name is
unknown to deponent for the following reasons:

✓ On said date, about the hour of 10 o'clock
 ✓ p.m. deponent was walking along Christopher
 Street and when he arrived at Greenwich
 Street the said defendants and said
 unknown man came behind deponent
 ✓ and violently seized hold of deponent
 ✓ by the neck and held him by force and
 violence and took from the left hand pocket
 of deponent's vest which was then and there

0379

worn on the person of defendant said gold Watch
and said Gold Chain and said Defendant to
And said unknown man afterwards took the
above-described Silver Coins from Defendants
pantaloons pockets by force and Violence
without the Consent and against the will
of Defendant.

Sworn to before me }
this 5th day of May 1885 } J. H. Williams
J. H. Williams
Police Justice

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
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.
Dated 1885 Police Justice.

I have admitted the above named
to bail to answer by the undertaking hereto annexed.
Dated 1885 Police Justice.

There being no sufficient cause to believe the within named
guilty of the offence within mentioned, I order he to be discharged.
Dated 1885 Police Justice.

Police Court,	District.
THE PEOPLE, &c., on the complaint of	
1	vs.
2	
3	
4	
5	
Dated	188
Magistrate.	
Officer.	
Clerk.	
Witnesses,	
No.	Street,
No.	Street,
No.	Street,
\$	to answer General Sessions.

0380

Sec. 198-200.

CITY AND COUNTY OF NEW YORK

Second District Police Court.

John O. Keefe 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.

Question. How old are you?

Answer.

Question. Where were you born?

Answer.

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

Answer.

Question. What is your business or profession?

Answer.

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
John O. Keefe

Taken before me this

day of

1885

Police Justice.

0381

Sec. 198-200.

Second District Police Court.

CITY AND COUNTY
OF NEW YORK.

John Joya 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.

John Joya

Question. How old are you?

Answer.

24 years

Question. Where were you born?

Answer.

New York City

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

Answer.

75 Canal Street, 3 weeks

Question. What is your business or profession?

Answer.

Boatman

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
John Joya

Taken before me this

day of

1885

Police Justice.

0382

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 John Joyce

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Twenty
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.

Dated May 5 1885 R. G. Duffy Police Justice.
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

John O. Keefe
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Twenty
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.

Dated May 5 1885 R. G. Duffy 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.

0383

BAILED,

No. 1, by _____

Residence _____ Street,

No. 2 by _____

Residence _____ Street,

No. 3 by _____

Residence _____ Street,

No. 4, by _____

Residence _____ Street,

No 58
Police Court District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

William H. Williams
98 Belvidere av.
Newark N.J.

1. John Joyce

2. John O. Keefe

3. _____

4. _____

Dated May 5 1885

Bluffy
James Martin & Flanagan
9th Precinct

Witnesses, Minnie Hagan
68 Brown St.

No. 245 West 10th Street,

No. _____ Street,

City Heights New York
Warden Jackson of Sing Sing

No. _____ Street,

\$ 2000 to answer by S.

\$ 2000 " by S.

0384

5502 § 1883

The People
vs.
John Joyce.

Court of General Sessions, Part I.
Before Judge Gildersleeve.

Monday, August 8, 1887.

Jointly indicted with John O'Keefe for robbery in the
first degree, second offence.

Asst. Dist. Atty. Purdy for the People.

Mr Kellar for the Defendant.

Mr Kellar: In this case the defendant declines to state whether
the jury is satisfactory or not, upon the ground that he
denies the authority and jurisdiction of the court to
empanel the jury to try him the second time for the same
offence and therefore he leaves it entirely in the hands
of the Court.

The Court: Very well, swear the jury.

Mr Purdy: Is the jury satisfactory to you?

Mr Kellar: I have nothing to say except my client instructs me to
say in regard to empannelling the jury that it is a
question for the Court to decide.

Mr Purdy: Gentlemen, this case has attracted some attention---

Mr Kellar: I object to any statement being made by the District
Attorney regarding what took place previous to the pleas
which were entered before your Honor and overruled by
your Honor, upon the ground that any declaration would
prejudice the defendant.

The Court: You may notethat objection. I think it would be suf-
ficient to ask them if they ever heard of the case of
John Joyce. Have you ever heard of the case of the People
against John Joyce? What is the charge --

0385

Minnie Lewis sworn and examined by Mr

Purdy, testified.

Q. Where do you reside.

A. Hunter's Point now.

Q. On the 4th of May, 1885 where did you reside.

A. In Hoboken.

Q. Do you recollect on the night of the 4th of May coming over here from Hoboken at about ten o'clock in the evening.

A. Yes sir.

Q. Do you recollect seeing that man that night, Joyce.

A. Yes sir.

Q. What time Miss Lewis did you leave home in Hoboken on the evening of the 4th of May, 1885.

A. It was about nine o'clock when I left Hoboken and I stopped in Christopher Street.

Q. You came across the ferry.

A. Yes sir, and stopped in Christopher Street.

Q. Where in Christopher Street.

A. In Beckey's, Christopher Street.

Q. What is that place.

A. It is a hotel where I used to work.

Q. How long did you remain there that night.

A. I remained there some time, I do not remember the time exactly I got to the corner.

Q. Did you start from there to go home.

A. Yes sir.

Q. Don't be excited, I see you are a little nervous, tell in your own way to that furthest juror, so he can hear, what you saw this man and other people do, what you saw of

0386

this occurrence.

A. I come up Christopher Street as far as Greenwich Street and when I got as far as Greenwich and Christopher, the fence there under the Elevated Station, I saw the men had hold of a man against the fence, Mr Williams, one had his hands behind him and the other man was going through his pocket and one had his hands on his throat.

Q. Which man had his hand on the throat.

A. Joyce, that man there. I went over and asked them what they were doing? They told me it was none of my business.

Q. You went across the street.

A. Yes sir. I asked them what they were doing with that man? I could not tell which one spoke, one did speak.

Q. What did he say.

Counsel: I object, the defendant is charged with the crime of robbing William H. Williams on the night of the 4th of May, 1885. As I understand from the declaration of the District Attorney, the complainant is not in this Court.

Mr Purdy: No, he is dead, for the purposes of this trial.

Counsel: We cannot proceed upon this indictment with any evidence except ---

Mr Purdy: What is there before the Court?

Counsel: I am objecting to the question upon the ground that unless this woman identifies the complainant or the prisoner, unless this witness can point out the prisoner or can state that she is personally acquainted with the person mentioned in this indictment as the one who ---

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The Court: She cannot tell what was said at the time. You state the ground of the objection.

Counsel: I object on the ground that there is nothing to connect the person she saw and talked to with the person mentioned in the indictment.

The Court: Objection overruled.

By Mr. Purdy. Q. When you asked, what are you doing with that man? what did he say.

Objected to. Objection overruled. Exception.

A. He said it is none of my damned business.

Q. Then what did you do.

A. They started to run and I went after them.

Q. Did you holla.

A. Yes sir.

Q. When did you holla.

A. I hollaed as soon as they started to run, I hollaed, stop thief, Mr Williams was taken to the Station House.

Q. Did he holla.

A. No sir, I saw Williams at the Station House.

Q. Did you run after the man that ran away.

A. Yes sir.

Q. You saw two of them run away.

A. Yes sir.

Q. You ran after them. A. Yes sir.

Q. What next did you see.

A. I did not see nothing more until I met the officer on the corner of Barrow and Washington Street.

Q. Who did he have with him.

A. There was another officer with him, they had Joyce.

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Q. You ran after these fleeing men and you halloed stop thief.

A. Yes sir.

Q. And in your running you met ---

A. Met that man there corner of Barrow and Washington.

Q. With Joyce. A. Yes sir; when he caught the man I was around the corner.

Q. What did you say to the officer in the presence of Joyce.

A. I said they robbed a man around the corner of Christopher and Greenwich Streets.

By the Court. Q. What did Joyce say to that.

A. He did not say nothing, he was taken to the Station House

By Mr Purdy. Q. You went with him.

A. Yes sir.

Q. When you got to the Station House whom did you see.

A. I saw Joyce and Mr Williams.

Q. You saw some man whom you know now to be Williams.

Objected to.

A. Yes sir.

Q. He was the same man that you had seen him and the three men robbing, at the Station House.

A. Yes sir.

Q. Do you recollect what he said his name was.

A. William H. Williams.

Q. What took place at the Station House.

A. The Sergeant asked me what I seen and I told him.

Q. Did you see Williams identify Joyce.

A. Yes, he said that was the man.

Q. Williams said that was the man that robbed him.

5 A. Yes sir.

0389

Q. Then this man was put down stairs, was he .

A. Yes sir.

Q. The next day did you go to the Police Justice.

A. Yes sir.

Q. Did you see Mr Williams, the same man you had seen before

A. Yes sir.

Q. Did you hear him give his name, William H. Williams.

A. Yes sir.

Q. How many times have you been down to this Court.

A. I have been coming here ever since the trial has been here, ever since he has been locked up.

Q. A period of two years.

A. Yes sir.

Q. Have you seen in the Court the same man repeatedly upstairs that gave his name William H. Williams.

Objected to as immaterial and irrelevant. Objection overruled. Exception.

A. Yes sir, at this Court House, no other place.

Q. Did you see him upstairs on the day when Joyce was brought to trial.

A. Yes sir, the first day.

Q. The first day that Joyce was brought to trial you saw Williams there, the same man.

A. Yes sir.

Q. Did he tell you where he lived.

A. He said he lived in Bellevue Avenue, Newark.

Counsel: Objected to.

The Court: Cross that out.

By Mr Purdy . Q. You had a conversation.

0390

A. I had no conversation only he told me that he lived in Bellvue Avenue.

Counsel: I have no questions to ask, I reserve my right to cross-examine this witness.

By Counsel. Q. What is your statement now, you say Joyce held the man by the throat.

A. By the throat.

Q. And another person held him round the waist.

A. No, the other man had this man's hand behind him.

Q. And the third was doing what.

A. He was going through his pockets.

Counsel: I stated I have no question to ask this witness upon cross-examination but I ask your Honor to reserve my right to cross examine her in case I deem it to be necessary at the termination of the District Attorney's case

The Court: Very well.

Mr Purdy: I object to that.

James W. Morton sworn and examined by Mr Purdy.

Q. Morton, you are a police officer.

A. Yes sir.

Q. What precinct are you attached to.

A. The 9th.

Q. On the 4th of May, 1935 you were patrolling where?

A. On Barrow Street.

Q. Barrow Street, at about ten o'clock.

A. Ten o'clock.

Q. Did you hear anything.

A. I heard a woman scream.

Q. Tell this jury exactly everything you saw and did.

A. I heard a woman scream from the direction of Christopher and Washington, I looked up towards Washington and Christopher Streets, I saw two men running towards me, I told them to stop, neither one of them did, I struck Joyce, knocking him down, the prisoner. I did not know what was the matter then, I saw the woman going down Washington Street; there was another officer coming and I told him to run and get that woman, he brought the woman down and I asked her what was the matter.

Q. That was the last witness.

A. The last witness, I asked her what was the matter and she told me that three men had robbed the man on the corner of Greenwich and Christopher Streets. I brought the both up, I did not see anybody there, I brought both to the Station House.

Q. You brought the woman and the prisoner to the Station House.

A. Yes sir. I got in the Station House, I saw the man at the desk complaining to the Captain that he had been robbed; I asked him if that was the man that robbed him, (pointing to Joyce); he said, that is the man; he made a jump at Joyce as though to assault him. We held the man back, he was very much excited, he was scratched and cut on the neck a good deal; he positively identified Joyce as one of them; we went through Joyce, we did not find anything on him; the man said he lost a watch.

Counsel: Objected to.

Q. What did he say he lost.

0392

A. He said he lost a watch.

By the Court. Q. Was he, Joyce, right there.

A. Joyce was right there at the desk when he made that statement.

By Counsel. Q. Did the defendant overhear him, did Joyce overhear what he said.

A. Joyce was standing right by the desk and heard him because I stood between both of them. Then the man wanted to assault Joyce.

By Mr Purdy. Q. What did he say he lost.

A. He said he lost a watch.

Counsel: Objected to on the ground that it is not the best evidence that can be offered.

The Court: His declaration in the presence of the defendant must be admitted, it is proper.

Counsel: Not an exception.

By Mr Purdy. Q. State what he said about what he had lost and all that Williams said that night.

A. He said he lost a watch and about six dollars in money.

Counsel: I object to this upon the ground that there has been no evidence yet offered as to the loss of any watch or money and therefore the declaration of the complainant that he had lost the watch and money without the fact of the actual loss first being proved, is not the best evidence and is immaterial and irrelevant.

The Court: Objection overruled.

Counsel: Note an exception.

By the Court. Q. Go on.

A. He said he lost a watch and about six dollars, the value

of the whole of it about seventy odd dollars; we searched Joyce, we did not find no watch on him in fact, we found nothing only a large knife, it was a sort of a dirk, it was a dirk, one of these knives that you open and close the blade again, you have to press upon a little spring on the back, it was broken. We locked him down and brought him over to the Police Court the next morning.

By Mr Purdy. Q. You took him to the Police Court.

A. I took him to the Police Court.

Q. Was Williams there.

A. We held Williams all night in the Station House so as to have him there in the morning, he was perfectly willing to stay.

Q. Was this lady, the last witness, there.

A. That lady was there.

Q. Now were you present when the complaint was taken from Williams.

A. I was standing right at the desk.

Q. Will you say whether that is the signature that he signed and whether that is the complaint that he made. (Paper shown.) A. That is the signature.

Q. Then after he made the complaint was Joyce brought out.

A. Joyce was brought right out to the complaint clerk.

Q. Was Joyce brought to the desk where Williams stood.

A. Yes sir.

Q. They stood together. A. Right along side of him.

Q. Was that complaint read over to Joyce.

Counsel: Take the objection as matter of form and let it be overruled temporarily.

The Court: Objection overruled.

0394

A. The complaint was read to Joyce.

By Mr Purdy. Q. Then ~~was~~ you present when this question was announced, if you recollect it, was Joyce asked his name, and did he say John Joyce, and did he say he was twenty-four years old, that he was born in New York City, and lived at 75 Canal Street two or three weeks, and did he say that his business was that of a boatman.

A. Yes sir.

Q. Do you recollect that they asked him, the Clerk or the Magistrate asked him, to give any explanation he might think proper of the circumstances appearing against him and to state any facts that he might think would lead to his exculpation.

A. Yes sir.

Q. And that he replied, "I am not guilty."

A. Yes sir.

Q. I s that his signature. A. That is his signature.

Q. When this complaint was read over to Joyce Williams stood right near him didn't he.

A. Right alongside of him.

Counsel: I object to that as placing the answer directly in the witnesses's mouth.

By Mr Purdy. Q. When this complaint was read over to Joyce where was Williams.

A. Standing by the Complaint Clerk.

Q. That complaint was made before Joyce was brought out.

A. The complaint was drawn and Williams and I were standing by the Complaint Clerk in Jefferson Market Police Court, he entered his complaint, then the Clerk says, "bring out

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Joyce", and Joyce was brought out and Williams was standing there.

By Counsel Q. Was that complaint signed.

A. Williams signed his paper.

Q. And swore to it. A. I did not see him swear to it.

Q. He signed it. A. Yes sir.

By Mr Purdy. Q. It was read all over to Joyce in Williams' presence. A. Yes sir, to Joyce in Williams' presence.

Q. What did Joyce say.

A. Joyce did not say anything.

Q. Did he ask Williams any question. A. Not a word.

Q. There was an opportunity for him to ask him.

A. Objected to.
A. Yes sir.

Q. That is Williams' signature. A. Yes sir.

Q. Were you present upstairs when Joyce was first put on trial. A. Yes sir.

Q. Was Williams there. A. He was.

Q. How old a man is Williams.

A. I should judge he was a man of sixty.

Q. He is not here to-day. A. Not here, no sir.

Q. Do you recollect when this case was on before.

A. Objected to. Objection overruled. Exception.
Q. You recollect Williams was not here.

A. He has not been here the last three times.

Q. Did you take a letter to Mr Williams from me.

A. Yes sir.

Counsel: I object as immaterial and irrelevant.

The Court: Objection overruled. Exception.

0396

By Mr Purdy. Q. Did you take that letter and go to see Williams

In Newark. A. Yes sir.

Q. You had a conversation with him, did you.

A. Yes sir, for two hours.

Q. He is not here to-day, is he.

A. No sir.

Mr Purdy: I will prove if there is any doubt about it that we
mailed another subpoena. I offer this complaint and the
statement of the prisoner in evidence.

The Court: You have proved that, but that deposition is not in
evidence.

Cross Examined.

Q. You saw none of the difficulty between any man and the
prisoner that night.

A. No sir.

Q. And you do not know whether it was the person whose name
is mentioned in this indictment was the person who made
the accusation that night from your personal knowledge.

A. I did not see the man get robbed at all, the first I saw
of him was in the Station House.

Q. You do not know from your own knowledge whether that per-
son is the person mentioned in the present indictment.

A. I saw him in the Station House, I have seen him here.

Q. Do you know whether the man you saw in the Station House
that night is the complainant in this case whose name is
mentioned in the indictment, of your own personal know-
ledge.

A. Yes sir.

By the Court. Q. Who signed this complaint.

0397

A. Williams.

Q. You do know that. A. Yes sir.

By Counsel. Q. Do you know that the person whose name is mentioned in this indictment upon which John Joyce is on trial today. A. Yes sir.

Q. You do. A. Yes sir.

Q. How do you know that.

A. Well, I know Williams, I have met him a dozen of times since that and I saw him sign that paper in Jefferson Market Police Court, I was standing along side of him when he signed it.

Q. I am speaking, Officer, of the indictment in this case, do you know what the indictment is.

A. Well, all I saw him sign was the paper at Jefferson Market.

Q. Do you know what an indictment is. A. Yes sir.

Q. What is it.

A. An indictment -- a man goes before the Grand Jury.

Mr Purdy. I object as immaterial, irrelevant and incompetent.

By Counsel. Q. Do you know that the person whom you saw that night is the person mentioned in this indictment. A. Yes sir.

Q. You do. A? Yes sir.

Q. How so.

A. I saw him sign that paper, I do not understand you thoroughly at all.

Q. Officer, try and answer yes or no, do you know that the person you saw the night in question, that you have spoken of, is the person whose name is mentioned in the present indictment upon which John Joyce is being tried.

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A. I do not understand you now.

Q. You do not understand me. A. No sir.

Q. Then you can't say whether the person whom you saw that night in the Station House and who accused John Joyce of robbing him, is the person whose name is mentioned in this indictment or not.

A. Yes sir.

Q. You can. A. He is the man.

Q. Now why.

A. Because he is the man made the complaint in the Station House against him; he came over every time until the last three times; I have been over to his house and had a conversation with him for two hours; I was in the Grand Jury room, I was not called inside.

Q. Do you know when this indictment was found.

A. I do not recollect exactly.

Q. You do not. A. No sir.

By Mr Purdy. Q. Did you see him go into the Grand Jury room.

A. I saw him.

Q. You were subpoenaed.

A. I was not called at all.

Q. They did not think your testimony was necessary.

A. No sir.

Q. But you saw the same Williams go into the Grand Jury room in this case. A. Yes sir.

By the Court. Q. Did you see the defendant arraigned at the bar and asked to plead to the indictment that had been found.

A. I saw him brought up before Judge Cowing.

Counsel: Objected to.

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By the Court. Q. Yes or no.

A. I saw him.

The Court: Strike it out, never mind about that.

Henry Welsh sworn and examined.

By Mr Purdy. Q. Mr Welch, what is your business.

A. I am the third Deputy Clerk of this Court.

Q. Look at that paper and state what it is.

A. This is an indictment against John Joyce, otherwise called Yellow^{and} Frank Montague, filed in this Court on the 4th day of March, 1879.

Q. Now turn to the record, what is the crime charged in the indictment.

A. The crime charged in the indictment is grand larceny from the person in the night time and receiving stolen goods..

Q. Turn to the record.

A. I have it, sit.

Q. Read it.

A. "Friday morning, March 7, 1879; present Hon. Rufus B. Cowing, City Judge, Justice of the Sessions. The People against John Joyce alias Yellow impaled with Frank Montague on trial. Grand larceny from the person in the night time and receiving stolen goods. February 23rd, 1879, receiving one watch of the value of forty-five dollars with guilty knowledge, etc., of John Donohue, filed March 4, 1879. Morace Russell for the people, F. E. Price for prisoner. Same jury by consent. The jury returned to the bar and say they find the prisoner guilty of the offence charged in the second count of the indictment. The jurors polled and severally affirmed

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their verdict. Mr Price moves for a new trial on the merits. After hearing counsel the Court deny the same.

Monday morning, March 10, 1879. Present Hon. Rufus B. Cowing, City Judge, Justice of the Sessions. The People against John Joyce alias Yellow impleaded with Frank Montague. Conviction by verdict of receiving stolen goods, knowing the same to have been stolen March 7, 1879. The prisoner having nothing further to say ect., judgment in the State Prison at hard labor for the term of five years."

Mr Purdy: I offer the indictment under record in evidence.

The Court: It may be received.

John Flannagan sworn and examined.

By Mr Purdy. Q. Mr Flannagan, you are a police officer.

A. No sir, I was at that time.

Q. You are not a police officer now.

A. No sir.

Q. Were you such in 1879, March 10. A. Yes sir.

Q. Were you present in Court when a person known as John Joyce was sent to the State Prison by Hon. Rufus Cowing.

A. I was.

Q. Is this the same man. A. Yes sir.

By the Court. Q. The John Joyce referred to in the record, introduced in evidence, is the same John Joyce. A. Yes sir.

By Mr Purdy. Q. Do you recollect when Joyce was arraigned before Judge Cowing the first time he was put on trial.

A. On this indictment?

Q. Yes. A. Yes sir.

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Q. He was charged in the indictment with a man named O'Keefe was he not. A. Yes sir.

Q. Do you recollect Joyce being brought out to the bar.

A. Yes sir.

Q. When Joyce was brought out to the bar, what did he say to the Court.

Objected to as being entirely irrelevant and illegal.

By Counsel. Q. Was his counsel present, Flannagan.

A. No sir.

Q. And it was in answer to the indictment upon which he had retained counsel ---

The Court. I think you had better keep that all out.

Mr Purdy. I think my case is strong enough without it, I withdraw it for a moment, I will renew it if there is any defence made.

James Jackson sworn and examined by Mr Purdy.

Q. Mr Jackson, what is your business.

A. I am the State Detective at Sing Sing Prison.

Q. Do you know Joyce. A. Very well.

Q. Can you state whether he was in Sing Sing in the year 1870 and 1880. A. Yes sir, he was.

Q. When did he come. A. In March 1879, I think about the 11th.

Q. How long did he remain.

A. He had a sentence of five years, he had seventeen months short time, he remained there about three years and five months.

By the Court. Q. Do you know what he was there for.

18 A. Yes sir, receiving stolen goods -- sent from this Court.

Mr Purdy:

I rest the case for the people.

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John Flanagan recalled by Mr Purdy.

Q. What did Joyce say when he was brought up before ~~the~~ Judge. Cowing. I do not ask his plea, not what he pleaded to or anything of that kind, when he was brought up in front of the desk what did he say, if anything, to Judge Cowing relative to the charge made in this indictment against him.

Counsel: Objected to on the ground that whatever he did say was not evidence in the absence of retained and chosen counsel; and secondly, upon the ground that whatever he may have said which resulted in a plea that the Supreme Court of the General Term has reversed and set aside all the proceedings on the ground that Joyce was taken by surprise.

The Court: I will allow the question, and note an exception.

Q. What did he say.

A. The prisoner was brought up to plead to that charge of robbery; he pleaded to the offence and said that he alone was guilty, that the other man had nothing to do with the offence.

Q. Well, before he pleaded, what did he say to the Judge.

A. He said that the other man was innocent and that he alone was guilty.

Q. Joyce, and after that he entered his plea.

A. Yes sir, it was at that time.

By Counsel. Q. He entered a plea of guilty.

A. Yes sir.

Counsel: I ask permission of the Court to withdraw my question.

The Court: I will let the whole thing stand. You may note that

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the Counsel asks to withdraw the question and to strike out the answer; I deny that motion for the present.

Mr Purdy: And the District Attorney asks to strike out the answer of the witness, that he pleaded guilty, that it was not responsive to his question.

By Counsel. Q. During all this time, Officer Flanagan, was his Counsel present.

A. He had no counsel in Court that I recollect.

Q. Was Frank E. Kellar, Counsellor at Law, present at that time at Court for Joyce.

A. Not at the time he pleaded.

Q. Not at the time he answered these questions to the Court.

A. No sir.

Mr Purdy: Now I will rest the case.

Counsel: I have nothing to say in this case.

Minnie Lewis recalled by Counsel.

Q. Miss Lewis, is Lewis your right name.

A. Yes sir.

Q. Why did not you use that name in the Police Court.

A. Because I was not married then, that is the reason I did not give it.

Q. Isn't it a fact that your name is Miss Wilson.

A. Yes sir.

Q. You could not have been Miss Wilson and Miss Lewis prior to your marriage.

A. My maiden name was Wilson, I gave my name Hagan so that my name would not be put in the paper.

Q. Was it because you are married since that you use the

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name of Lewis to-day.

A. Yes sir, because I have a right to.

Q. When did you marry Mr. Lewis.

A. The 2nd of June.

Q. Last, A. Yes sir.

Q. You gave a wrong name in the Police Court in order to screen yourself as I understand, from your prior answer.

A. Yes sir.

Q. As a witness on behalf of the State of New York, why did you wish to screen your name.

A. Because I wanted to.

Q. Because you wanted to. A. Yes sir.

Q. You swore that your name was Minne Hagan.

A. I gave that name, I did not swear it at all.

Q. Did you swear that your name was Minne Hagan in the case of the People against John O'Keefe.

A. I did not, I gave my name as Minne Hagan.

Q. Did not you swear in the case of John O'Keefe, who was jointly indicted with the prisoner at the bar, did not you give that evidence under the name ~~was~~ of Minnie Hagan

A. Yes sir.

Q. Then you swore at that time to that which was untrue so far as your name was concerned. A. Yes sir.

Q. Now about what time of night was it that you say you saw John Joyce and two others there.

A. I could not tell the exact time, I came from Hoboken at nine o'clock.

Q? About what time.

A. I said nine o'clock.

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- Q. Were you on the other side from where this alleged assault took place.
- A. Yes sir, I crossed over.
- Q. You crossed over. A. Yes sir.
- Q. Then you were not on the same side of the street at any time during the assault.
- A. When I came up the street the three men had Mr Williams there and I went over.
- Q. Did you go over to them. A. Yes sir.
- Q. Before they went away. A. Yes sir.
- Q. Before they ran away. A. Yes sir.
- Q. You said that you saw them running away and that you followed them.
- A. I said when I went over there I asked them what they were doing to the man and they told me it was none of my business; they run away and I ran after them.
- Q. Did you go there alone. A. Yes sir.
- Q. Were you on your road back home.
- A. I was going to my mother's house in 10th Street and Hudson.
- Q. Can you say, as matter of fact, whether Mr Williams had not taken the watch and chain from the person of John Joyce or one of the others before you saw the trouble at all, and that they were endeavoring to recover possession of their own property, can you say from your own personal knowledge whether that be correct or not.
- A. I never saw Mr Williams until I went up there and the man said he lost his watch and chain and six dollars in money that is all I know about it.

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Q. John Joyce was present when Williams said that.

A. Yes sir, Joyce and in the Station House.

Q. I am asking you at the time that you say you saw this alleged assault by John Joyce and two others, if you can swear whether it be a fact that John Joyce and the other two were endeavoring to recover their own property from William Williams.

Objected to.

A. I told you all I know about it, I cannot say no more.

Q. You do not know that anything was taken from Williams that night of your own knowledge.

A. Only from what the man said in the Station House, the man said in the Station House his watch and chain were gone.

Q. I am asking from your personal knowledge.

A. I cannot say no more than what the man said.

Q. Then you do not know personally.

A. I know nothing more about it than what I told the man.

Mr Purdy: I concede that she cannot.

By Counsel. Q. Then you do not know whose property that was outside of the statement you heard in the Station House.

A. No sir, by Mr Williams, that is all.

By Mr Purdy. Q. You have been asked by Counsel if you were present at O'Keefe's trial, was Joyce present at the time.

A. Yes sir, they were both brought out together.

Q. Do you recollect Joyce standing up before the bar.

A. Yes sir.

Q. What did Joyce say about this thing.

A. I could not remember it.

Q. You cannot remember what Joyce said.

A. No sir.

but write this
The Jury rendered a verdict of guilty of robbery in the first degree, second offence.

0407

*Testimony in the
case of
John Joyce
filed
May 1985*

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0408

District Attorneys Office.
City & County of
New York.

188

Exhibit No 2

in case of

John Doe

John Doe was arrested by a constable on the
April 21, 1874 for a burglary upon the
house of Charles Bradley 115 E. 4th St
and sentenced by the Recorder to a term of
2 years & 6 mos. in the State Prison.

She was again arrested August 13, 1876
upon a warrant returned on a complaint
against her and did not find indictment.

Again arrested July 2nd 1877 for a
burglary upon the liquor store of
Thomas Brown at 500 West St.
was tried July 16, 1877 and found
discharged.

She was again indicted March 4, 1879
for larceny from the person and
Receivings Stolen goods. was tried and
convicted March 10th 1879 - sentenced
to R.C.P. and sentenced to the State Prison
County for 5 years State Prison

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Police Department of the City of New York,

Precinct No. _____

New York, _____ 188

John Joyce & Mallon
 Indicted March 10th 1879
 Larceny from the person in
 the night time. Five years
 in State Prison

Judge Cowan

John Joyce & Riley.
 Indicted Feb. 17th 1884. Assault
 in 2^d degree. Pled guilty to
 3^d degree and sent one year
 in Penitentiary

Jan 13th 1883
 John Joyce arrested for
 1st degree Assault on James A.
 Savage. Pled on Examinat^{ion}
 Complainant Would not prosecute
 Jan 30.

0410

Supreme Court - General Term

First Department.

In Appeal from the Court of General
Sessions of the Peace in and for the
City and County of New York

John Joyce, Appellant

against

The People &c., Respondents.

Proposed Settled Case.

The appellant John Joyce was indicted for the crime of robbery in the first degree as a second offence under the indictment, a certified copy of which is hereto annexed, filed May 13th 1885. On May 15th 1885, appellant through his retained counsel, Frank J. Keller, made a formal admission which was entered by the Court stenographer to the effect that appellant was ~~guilty~~ of the second offence mentioned in the indictment, to wit: the offence of receiving stolen goods on the 7th day of March 1885 and for such offence was sentenced to State Prison for the term of five years. That upon the entry of said admission, the trial of said appellant was adjourned till the 19th of May 1885. That upon said date, to wit, May 19th 1885, the Court opened at 10 o'clock and the appellant John Joyce, together with one John O'Keefe ^{jointly indicted with said Joyce} was called to the bar for trial, in the absence of their counsel to wit, Frank J. Keller, representing Joyce and James P. McClelland representing O'Keefe, and Theodore H. Swift, Esq. was assigned to defend them. Appellant, in the absence of his retained

This so called
proposed settled case
is wholly disallowed
a statement of facts
herewith filed is
substituted in the
place thereof.
Noted Mch/85
Rufus B. Boring
J. B. Boring

Sup. Supreme Court.
General Term

The People vs
Russo

Plaintiff
against

John Joseph
Russo

Defendant

Proposed Settled
Case

FRANK J. KELLER.

Attorney for Russo
346 BROADWAY,
NEW YORK CITY.

To Esq.

Attorney for

Due and timely service of this

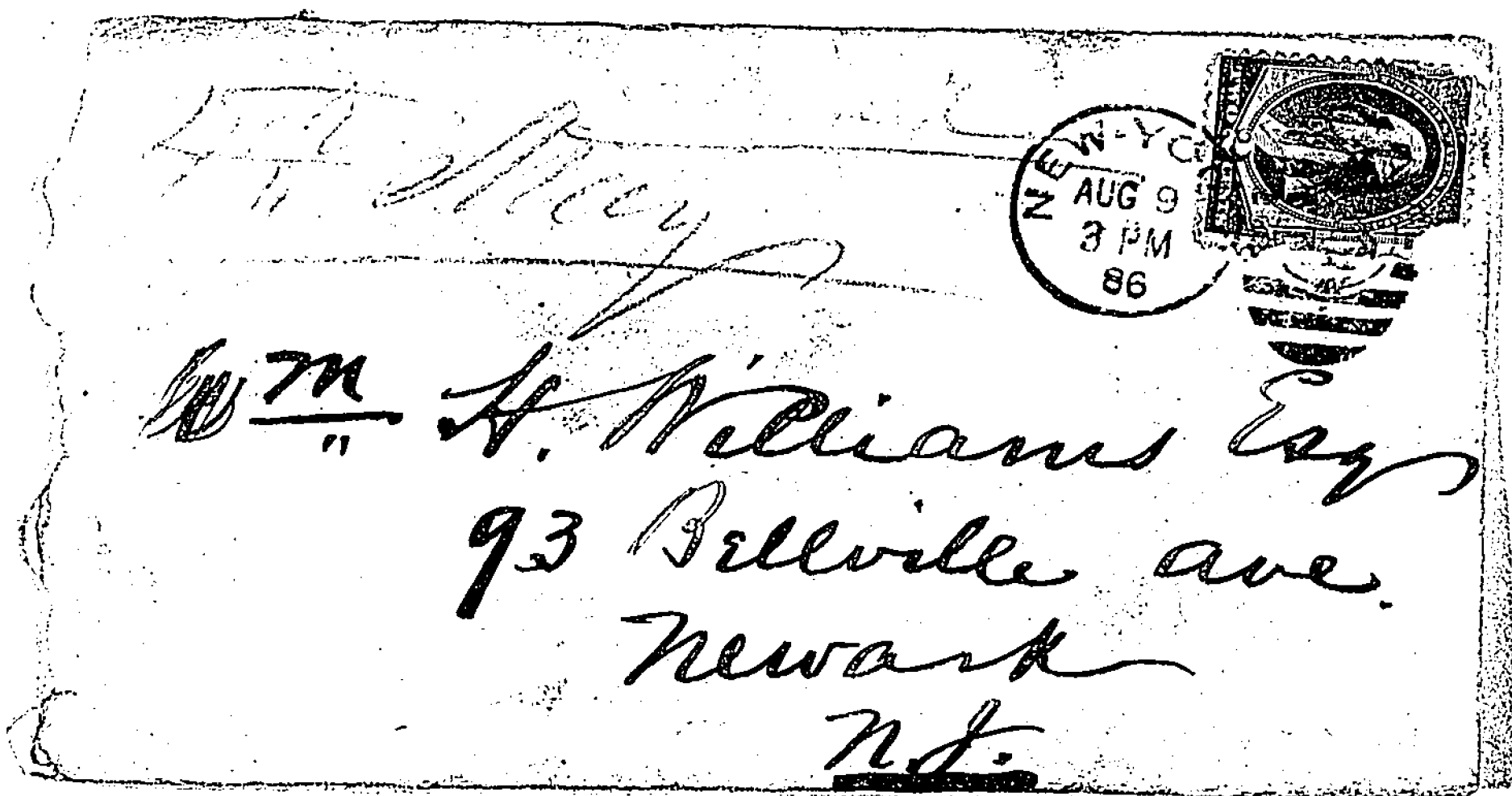
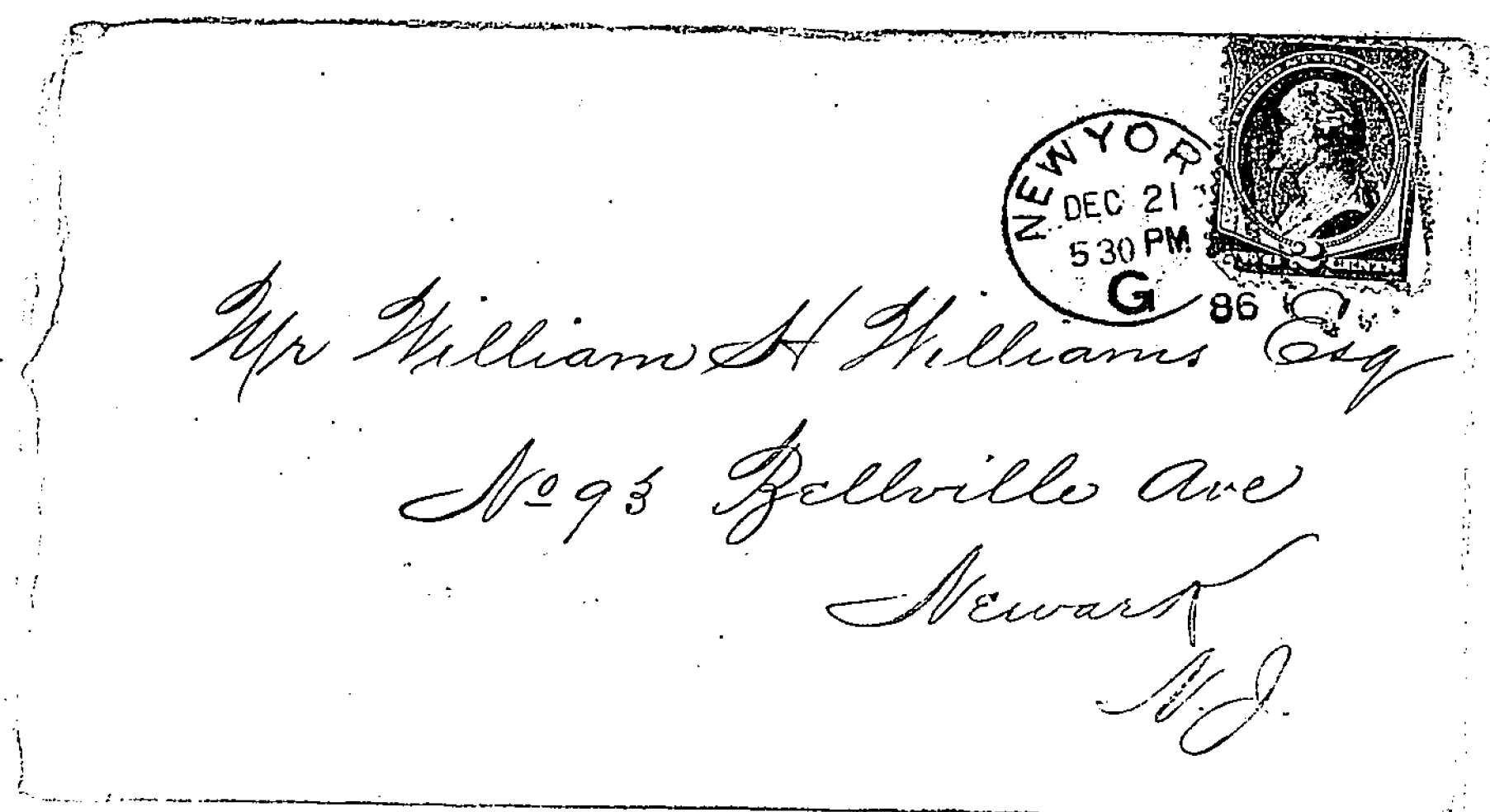
is hereby admitted.

Dated 188

Attorney for

C. B. Manwin, Printer, 218 Fulton St., N. Y.

04 12



0413

Supreme Court,
New York County

People &c
Respondents
vs

John Joyce
Appellant

Having read and examined the affidavit of Frank
J. Miller Esq. ^{criminal} for the above named appellant, together
with the copies of the motion for a new trial, and in
presence of defendant hereto attached, it is hereby
O r d e r e d, that the District Attorney of the City
and County of New York, show cause before this Court
in Chambers thereof in the County Court House City of
New York, on Thursday ¹⁶ day of August 1937 at 10-30
a m ^{also} a certificate under the Provisions of Section ^{criminal} 527
of the Code of ~~Civil~~ Procedure and a permanent stay
from all further proceedings in the above entitled ac-
tion should not be granted; and further more it is order-
ed that in the meantime and until further order ^{that} the
execution of the sentence this day imposed upon appel-
lant be stayed. Service of this order this day to be
good and sufficient service.

Dated August 15th 1937

C. D. Donohue
J. C.

0414

Supreme Court
County of New York

The People &c
Respondents
vs
John Joyce
Appellant.

City and County of New York S S

Frank J Keller being duly
sworn saith.

1 He is the counsel for the above named Appellant

2 The papers hereto attached are true copies of the
motions for new trial and in arrest of judgment this day
presented to the Courts of General Sessions in accord
ance with law in the action of the People against the
above named Appellant

3 Deponent verily believes that such motions should
have been granted upon each and every one of the grounds
mentioned therein, and that the conviction of said Ap
pellant and the sentence rendered were and are wholly
unconstitutional illegal, null and void for the reasons
therein set forth

4 Deponent has been instructed by said appellant
to appeal to the General Term of this Court from said
conviction, and has this day served a notice of appeal up
on the District Attorney of the City and County of New
York and upon the Clerk of the said Court of General
Sessions.

0415

5 Deponent will be unable for some days to obtain the minutes of the trial of said action and the proceedings prior to said trial in said Court of General Sessions, had since the entry of the order of the General Sessions made in this action and referred to in said motions

6 No previous application has been made to this Court or any Judge thereof for the granting of the present Order

Sworn to before me this
15th day of August 1887



W. J. Hawick
Notary Public
N.Y.C.

0416

Court of General Sessions
New York County

The People, etc.

agst

John Joyce.

Motion on behalf of the above named defenddant John Joyce
in arrest of judgment for the following reasons:-

I Because this Court had no power or jurisdiction to
place defendant on trial the order of the General Term of the
Supreme Court setting the plea of guilty aside, dated *28 June*
1887 not having ordered a new trial ~~or the remission of the~~
~~papers in the case to this Court.~~

Sections 543, 544, 545 and 548 Code Criminal Procedure.

II Because one or the other of the pleas of former con-
viction and former acquittal entered by the defendant herein
should have been sustained.

III Because this Court had no power or jurisdiction to
order a jury to be empanelled to try any issue between the
People and the defendant as there was no issue pending, the
same having previously been adjudicated upon and finally dis-
posed of.

IV Because, at the said trial, no corpus delicti was
proven nor was any legal evidence adduced of the crime of rob-
bery in any degree or in fact, of any crime.

V Because illegal testimony was admitted at said trial
and especially the evidence to the effect that the defendant
had previously pleaded guilty to the indictment on the 19th of
May 1885, before his Honor Judge Cowing, which plea had been
set aside by the order of the General Term of the Supreme
Court.

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VI Because illegal testimony was admitted at said trial relative to certain alleged statements and declarations of the defendant to his Honor Judge Cowing on the 19th of May 1885, at the time the said plea of guilty was so entered by defendant in the absence of his counsel.

VII Because the admission of said testimony was in direct violation of Section 464 of Code of Crim. Pro. and of the decisions of the General Term of the Supreme Court rendered in the case of the People vs. the above named defendant, setting aside the said plea of guilty.

VIII Because the Court erred in its charge to the jury in charging the jury they had the right to find the defendant guilty of the crime of robbery in the first degree as a second offence.

IX Because the Court erred in its charge to the jury in referring to the said former plea of guilty entered by the defendant on the 19th of May 1885, and to the statements made by said defendant at the time of entering said plea.

X Because the Court erred in refusing to charge certain requests made by defendant. On the various questions exceptions taken during the trial.

XI- Because the verdict was against the weight of evidence and contrary to law and was and is wholly unconstitutional, illegal, null and void.

New York City August 15th 1887.

Frank P. Greer

Attorney for defendant,

320 Broadway, New York City

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CONF.

NEW YORK CITY, NEW YORK, 1887
100 WALL STREET, NEW YORK, 1887
NEW YORK CITY, NEW YORK, 1887

U.S. Supreme Court

The People, etc,

vs. Independent

John Jones

appell.

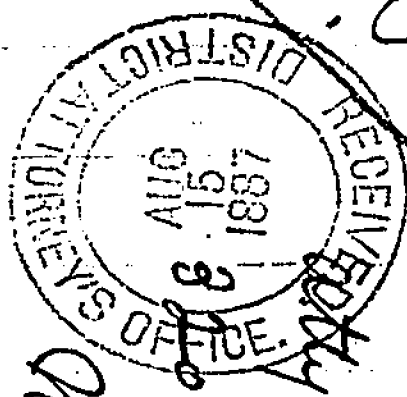
(copy)

Order granting

stay, etc.

Wm. J. Francis, J. Keller

for appell.



Wm. J. Francis

The stay hearing
in western and
remanded
Aug 16th 1887

POOR QUALITY
ORIGINALS

0419

Frank J. Keller:

Counsellor at Law:

No. 321 Broadway,

New York:

July 17, 1877

U. C. ...

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Frank J. Keller

0420

RANK J. KELLER,
COUNSELLOR AT LAW,
320 Broadway,
NEW YORK.

Answer

A.D. Parker Esq.

0421

Jombs Prison Dec 21/86

Dear Mr Williams

You must excuse
me for taking this liberty in writing
you But I have done so knowing you
to be a God fearing man and one that
has a tender heart I do not know if
you are a man of a family but
you should be you know the love
a father has for his child and
how much pain it would cost you
to have a son placed in such a pos-
ition as I am placed in at present
I am accused of a terrible crime as
you know and if convicted I know
my sentence shall be from 25 to 40
years Now Dear Mr Williams I am
in close confinement for the past
20 months and my constitution is
all broken up and if I have to

0422

remain much longer in prison I know that death will relieve me from all earthly troubles

Now Dear Mr Williams I was ^{to court} yesterday and I saw you there and I have not been able to eat, drink or sleep since I know if I go to prison that I shall not live 6 months I have suffered untold agonies since my unjust imprisonment and God knows I do not deserve it

All I ask of you Mr Williams is for God's sake not to appear against me You are out of the jurisdiction of the courts of New York and need not appear against me You need not take any notice of what the District Attorney may say for he cannot compel you to do so I ask you again for God's sake not to appear

0423

against me and if I get out I shall make restitution in double the amount I have been promised a good situation if I get out and so help my God I shall give you double the amount of value you lost

Dear Mr Williams I saw a young man in the prime of life and completely broken down in health and I saw completely broken up mentally also and I saw also the only support of a sister who ever since my incarceration here has been depending on the charity of strangers for her support

Now Mr Williams will you for God's sake, take a little notice of what I have asked you in this letter and knowing you to be a God fearing man will listen to my appeal and as true

0424

as God is my judge I shall do
as I have said in this letter
So I ask you again for God's
sake not to appear against me
and if you will only do this you
will be the cause of saving me from
an early grave and make the rest
of my sisters and my life a happy
one If you will do this you will
have the prayers of my sister
and myself and also of a number
of friends and you will be rewarded
in this world and also in the next
I remain

A poor suffering man
John Joyce

0425

District Attorney's Office.

PEOPLE

vs.

John Joyce
Robbery

Petition for writ
12/87 Pr 2. & by
plea of autrefois
acquitt.

ADA

0426

Newark N. J.
Feb 4/87
Mr Randolph B. Martine
Sir.

I wish to notify
you through my daughter
Ister that I will not be
able to appear Mon-
day February 7th in an-
swer to Subpoena re-
ceived to day for trial
of John Joyce in Court of
General Sessions on ac-

0427

count of severe accident which happened to me by the giving away of a carpenter's scaffold on which I was standing.

I am very much bruised and strained and one side of face and eye very much disfigured and will require several weeks before I could appear in Court satisfactory

Yours respectfully

W. H. Williams

93 Belledille ave
Londelline Lewark N.J.

0428

Dear Sir
I will testify
that I will not be
able to appear Mon
day including 1st in an
action to which I am
advised to bring for trial
of John Jones in Court of
Suffolk County on ac-

0429

Permanence
John J. J. J.

0430

District Attorney's Office.

Part that is for ~~34~~ ~~25~~

Jan 1897 Part 2

Gov. Fitzgerald - If possible, try
this case on this day

John Joyce

Robbery

I want to have
this case tried in
Part 2. this term.
If Fitzgerald is
overcrowded I
will arrange to have
Purdy try it. R.B.M.
Jan 11/97
John Parker

0431

District Attorney's Office.

Part One
Two
PEOPLE

vs.
John Joyce
Mich. 31

April 12, 1887
At 2, 1000
round-rope

April 12, 1887
April 12, 1887
argue plea of autrefois
acquitt. Ad 2

March 11
P 118 9-5-11

0432

Court of General Sessions.

THE PEOPLE

vs.

John Joyce

Robbery

City and County of New York, ss.:

James W. Morton being duly sworn, deposes and says: I am a Police Officer attached to the *9th* Precinct, in the City of New York. On the *14th* day of *July*, 1887, I called at *93 Belleville Avenue, in the City of Newark, State of New Jersey,* the alleged residence of *William H. Williams,* the complainant herein, to serve him with ^a ~~the annexed~~ subpoena, ~~and was informed by~~ directing him to appear therein in this Court upon the *15th inst.* I served the said subpoena personally upon said Williams, by handing the same to him. I informed him that the case would be tried on that date, if he appeared, & that his expenses to & from the place of trial would be reimbursed him by the County of New York. He said he would not promise to come, but would think over it that night. I conversed with him for a period of over an hour, but could obtain no promise from him to attend in obedience to said subpoena.

*James W. Morton*Sworn to before me, this *15th* dayof *July*, 1887
A. D. Barker
 Notary Public
 N.Y. Co.

0433

Court of General Sessions.

THE PEOPLE, on the Complaint of

William H. Williams

vs.

John Joy et

Offense: Robbery

RANDOLPH B. MARTINE,
District Attorney.

Affidavit of Police Officer

James W. Edwards

9th Precinct.

Have attended of
Failure to ~~Find~~ Witness.

0434

In Prison
Aug 8th

Sir: By reason of an error in the rulings of the court in my trial, I am almost assured of a reversal of the judgement which led to my horrible sentence of twenty five years. I have now been in prison approaching two years. I have suffered in body and in mind for the contemplation of what is practically a life time of punishment has been the hardest to bear. In case the higher

0435

court acts favorably I earnestly ask
you to give me a chance for my
liberty. Any ill will you may have
against me is certainly over ^{by this time}
and you know in your heart that I am
already punished as much and more than
I deserve. Therefore I beg of you not to
appear against me should I be arraigned
again. You are out of the jurisdiction
of the court and you are free to decline
to appear. There is no compulsion
possible. If I secure my liberty you
shall not promise you to the loser
one of what you have lost. Very hopefully yours
W H Williams Esq - } John Joyce.

0436

District Attorney's Office.

PEOPLE

vs.

John Jayce
et al.

Let this case
be tried in Court
1- immediately
after case of
Mr. Gada is
disposed of.

Nov 10/86 RBM

People's Attorney
in charge

0437

Handwritten: Randolph Martin Cray

Dear Sir,

John Brown is very
anxious to have his wife placed
near her children as she has
already spent so much time
in prison.

He tells me that he has
requested his lawyers to attend
to his mother's case and that
through legal means he may
have requested doing so.

Dr. Henry Jackson

0438

The People
^{vs}
John Joyce

0439

Court of General Sessions
New York County
The People vs

John Joyce

Sir,

Please take notice that the above named defendant will move this Court, in the Court House City of New York, on Monday the first day of August next, at 11. a.m. or so soon thereafter as counsel can be heard, for his discharge on his personal recognizance; on the ground of lack of prosecution, and further because it appears from affidavits now on file, and in the hands of the District Attorney of the City of New York; that the complainant refuses to appear in Court, and is beyond the jurisdiction of this Court.

New York 30 July 1887

To

Franklin B. Martin Ady for deft-
320 Broadway
N.Y.C.

0440

W. J. Linnal Sessions

The People v

John J. Goyce

Notice of motion

Paul J. Linnal
att. for def.
320 Broadway

Filed Aug 1. 1887

Court of General Sessions.

The People

against

John Doe.

Indictment for robbery. First degree.
Second offence.

Sir,

Please take notice that the
above named defendant will appear
this Court at 11 o'clock this day, on
Thursday, March 29th, 1857 at 11 A.M.
or soon after, to answer to the indictment
and, for the discharge under
the above indictment upon the
ground of lack of prosecution, under
the provisions of the Code, of crim-
inal procedure.

Dated March 29th 1857

Frank J. Keller
at for
320 Broadway
N.Y.C.

To Hon. Randolph B. Martin.
District Attorney etc.

0442

control
General Sessions

Thos Popple

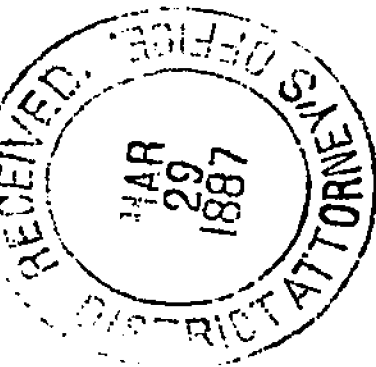
John Joyce

notice of motion

Grand Jury

at 12 o'clock

320 Broadway



0443

AT A GENERAL TERM OF THE SUPREME COURT OF THE STATE OF NEW YORK HELD AT THE COUNTY COURT HOUSE IN THE CITY OF NEW YORK FIRST DEPARTMENT, ON THE 28th OF JUNE, 1886.

P R E S E N T:

HON. J. R. BRADY, JUSTICE.

HON. CHARLES DANIELS, JUSTICE

and

HON. *P. A.* MACOMBER, JUSTICE.

-----X
The People of the State of New York :

Respondents. :

and :

John Joyce, :

Appellant. :
-----X

The Appeal heretofore taken herein by the defendant John Joyce, above named, from the judgment rendered by the Court of General Sessions, held in and for the City and County of New York, convicting him of the crime of robbery in the first degree as a second offense, having come on to be heard, and after hearing Frank J. Keller of Counsel on behalf of said appellant, and Ambrose H. Purdy Esq. Ass't. District Attorney for respondents herein and after due deliberation ~~being~~ had thereupon it is now upon motion of Frank J

0444

Keller, Counsel for appellant.

O R D E R E D that the plea of guilty entered by said appellant to the indictment on the 19th of May 1886 and the sentence rendered thereon on the 21st of May 1886, of twenty five years State Prison be and the same hereby are in all things reversed and set aside.

[Signature]

*A copy
James A. Black
Clerk*

0445

Code of Procedure
5-43, 5-44 & 5-45

6:15 A.M. 12/14/18
N. Y. Supreme Court.

The People vs
Respondents

against

John Joyce
Appellant

Order.

FRANK J. KELLER,

Attorney for Appellant

320 3rd BROADWAY,

NEW YORK CITY.

To _____ Esq.

Attorney for _____

Due and timely service of

_____ is hereby admitted.

Dated _____ 188.

Attorney for _____

C. B. Merwin, Printer, 218 Fulton St., N. Y.

Court of General Sessions of
the Peace, in and for the
City and County of New York
The People vs

against -

John Joyce

City and County of New York S.S.

John Joyce being duly sworn
saith;

1. He is the defendant herein.
2. Frank Keller Esq. was and
is his duly chosen retained
counsel to defend his interests
in the above action.
3. ✓ on the 19th May instant (1885)
between ten a.m. and fifteen
minutes thereafter, defendant
pleaded guilty to the indictment
against him in the absence
of his said counsel, when
deponent was ~~forced~~ about to be
forced to trial; and counsel
advised him that deponent
did not wish the services of
advised counsel.
4. Deponent was never arrested
for ^{the crime of} robbery prior to the present
indictment, and was not aware

0447

of the different degree of said
crimes, or the nature of
them.

John Toles

May 21st 1885

Wm. Moser

Chk Pr G.S.

John Toles

Court of General Sessions of
the Peace, in and for the
City and County of New York
The People v

against
John Joyce

Indictment for Robbery in the
first degree, as a second offence
City and County of New York. S.S.

Frank P. Keller, being
duly sworn saith;

1. He was and is the retained counsel of the defendant, in the above entitled criminal action.
2. Dependent is informed and believes as appears by the papers and indictment herein, that said defendant on the 19th May instant before the hour of eleven a.m. pleaded guilty to the indictment in the absence of dependent.
2. That defendant was deprived of the benefit of counsel, as provided for under the constitution of this State, and the reason why this dependent was not present in this Court at ten a.m. the hour at-

which said court opened, was, because deponent was wholly unaware that said court opened before eleven a.m. at which hour deponent was present; and prior to said hour deponent - was otherwise professionally engaged, on said 19th May 1885.

4. That deponent received no notice either directly or indirectly from this Court, or from the District Attorney's office, or from any source, that this court opened before eleven a.m., except a notice that he read in one of the Daily papers of this City, to the effect that Part-2 would open at ten a.m. during the progress of the trial of one Crowley in Part-1, which said trial was completed and ended prior to said May 19th 1885.

5. That deponent - ever since he has been practicing his profession, has always known

2

This Court to open at eleven a.m., and on said May 19th 1885, ^{deponent} had professional engagements which detained him from attending this Court prior to the hour named, namely 11 a.m. to wit in the Superior Court, and before this Honor Judge Van Brunt in Supreme Court Chambers.

6. That had this deponent been aware of the change of the hour in opening Court from 11 a.m. to 10 a.m. this deponent must have had some legal representative present to have explained his absence.

7. That this deponent would certainly have been present, or had his representative in Court, had he been aware of the change of the hour in opening Court.

Done before me -

This 21st May 1885 -

James H. Adams
Notary Public
N.Y.C.

Frank J. Keller

0451

Court.

Ch

Plaintiff

against

Julius Boyce.

Defendant

Filed May 21. 1885.

FRANK J. KELLER.

Attorney for

346 BROADWAY,
NEW YORK CITY.

To

Esq.

Attorney for

Due and timely service of

is hereby admitted.

188

Dated

Filed May 21. 1885.

Attorney for

C. B. Merwin, Printer, 218 Fulton St., N. Y.

0452

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

John J. Jones and
John D. Hughes

The Grand Jury of the City and County of New York, by this indictment,
accuse *William S. Burroughs*

of the CRIME OF

committed as follows:

The said *1922* *page and column 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 9*

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0454

[illegible]

0455

[illegible]

1. *Chrysomelidae* - 10
 2. *Curculionidae* - 10
 3. *Chrysomelidae* - 10
 4. *Curculionidae* - 10
 5. *Chrysomelidae* - 10
 6. *Curculionidae* - 10
 7. *Chrysomelidae* - 10
 8. *Curculionidae* - 10
 9. *Chrysomelidae* - 10
 10. *Curculionidae* - 10