The State of Tennessee

Be it remembered that at a circuit Court opened and held for the County of Blount at the court House in Maryville in said County and within the second Judicial District of the said State of Tennessee on the first monday after the fourth monday of July, to wit the fourth day of August in the Year of Our Lord One thousand Eight hundred and twenty Eight and holden by the Honorable Edward Scott Judge of said District -

William Wallace high sheriff of said County returned into Our said Court a list or venire facias of good and lawful men Citizens of said County designated and appointed by the justices of the Court of pleas and quarter Sessions of said Blount County at their next succeeding Session of their said Court after the last term of this Court as jurors to serve at this term of Our said Circuit Court, and that he had duly summoned and made known the same to the following good & lawful men Citizens of Our said County who were designated and appointed as afores said Henry Bowerman Strong McFadden Nelly Warren Matthew Hannah David Cobell John W Rankin John B Hale John Williams Jr William Upton Bailey McLuncan Matthew Whittenberger David Daniell William McKamy William Wilson Andrew Ferguson David Dunn James Trundle Robert Cunningham Isaac Yearout William Potter John H Howard Samuel Cowell Jr Samuel M. Culloch and Campbell Gillespie of whom the following appeared in Court

Court to wit David Hamill Jetley Warren
Matthew Hannah David Dunn David
Delzell Samuel Gould Sr. Andrew Ferguson
Henry Bowerman James Trundle William
Trotter Campbell Gillespy Robert Cunningham
William Wilson Matthew Whittenberger Isaac
Yearout Strong M. Faddon John M. Rankin
John Williams John B. Hale John R. Howard
and William M. Harry, and out of these were
chosen a grand inquest for Blount County to wit
James Trundle who is by the court now here
appointed foreman thereof and William
Trotter Campbell Gillespy Robert Cunningham
William Wilson Matthew Whittenberger Isaac
Yearout Strong M. Faddon John M. Rankin
John Williams Jr. John B. Hale John R. Howard
and William M. Harry Jr. which said grand
Jury were duly elected empanelled sworn and
charged to enquire for the body of the County
retired to consider of their presentments

And On Monday the first day of said term the
Grand Jurors appeared in Court and by their
foreman presented a Bill of Indictment against
Henry Lumford for Murder indorsed "a true Bill"
which is in the words & figures following
to wit State of Tennessee } Circuit Court.
second Judicial Circuit }
Blount County Viz } August term 1828
The grand Jurors for the State empanelled sworn
and charged to enquire for the body of the said
County in the Circuit aforesaid upon their oath
aforesaid present and say that Henry Lumford

of the said County laborer on the twenty fifth day of March in the Year of our Lord one thousand eight Hundred and twenty Eight at Cloid Creek town in said County and circuit and with in the jurisdiction of this Court. Not having the fear of God before his eyes, but being moved & seduced by the instigation of the devil with force and arms, in and upon one Berry Thompson then and there being, feloniously wilfully and of his malice aforethought an assault did make, and that he the said Henry Sumford with a certain large stick, of no value, which he the said Henry Sumford in his right hand then and there had and held, him the said Berry Thompson in and upon the head of him the said Berry Thompson on the left side thereof near to the Crown of the head of him the said Berry Thompson, then and there feloniously wilfully and of his malice aforethought did strike, giving to the said Berry Thompson, then and there with the stick aforesaid, by the stroke aforesaid in manner aforesaid in and upon the head of him the said Berry Thompson, on the left side thereof near to the Crown of the head of him the said Berry Thompson one Mortal wound of the length of two inches and of the depth of half an inch, of which Mortal wound the said Berry Thompson from the said twenty fifth day of March in the Year aforesaid, at Cloid Creek town in the County aforesaid until the second day of April in the Year aforesaid, at Cloid Creek aforesaid in the County aforesaid did

did languish, and languishing did live
On which second day of April in the year aforesaid
at Cloyds Creek in the County aforesaid he
the said Berry Thompson of the mortal wound
aforesaid died: And do the jurors aforesaid
upon their Oath aforesaid do say that the
said Henry Lumsford, him the said Berry
Thompson in the manner and by the means
aforesaid feloniously wilfully and of his mal
ice aforethought did kill and murder, to the
evil example of all others and against the
peace and dignity of the State.

John McKinney Attorney
upon which } General for the thirte
Bill of Indict= } Judicial district
ment are the following indorsements to wit
"Indictment" State } Murder=
vs
Henry Lumsford
"Abel Lockhart Prosecutor" "Witness Hezekiah
Thompson Patty Ellis John Glass James Glass
John Glass Jr. Andrew Ferguson Walter Weaver
Adam Cope Harman Martha William Weaver"
"John Glass Sr. John Glass Jr. & Isaac Glass sworn
& sent to the grand jury 4. August 1825. David Fritts Clk
Hezekiah Thompson Patty Ellis Andrew Ferguson
Walter Weaver Harma Martha & Wm Weaver sworn
& sent to the grand jury 4. August 1825. David Fritts Clk
"A true Bill" "Sam'l Frazier foreman of the Grand Jury"
And On Wednesday the third day of said term
On Motion of the Attorney General and it ap
pearing to the Court that the defendant Henry
Lumsford was confined in the prison of this
County It is Ordered by the Court that he

be brought to the Bar, which was done, and he being brought into Court and charged on the Bill of indictment plead thereto "Not Guilty" and the defendant is remanded to Jail –

And again the defendant being brought to the Bar says he is ready for his trial, whereupon a Venire of fifty two good & lawful men is ordered and the prisoner remanded to prison until tomorrow Morning –

And on Thursday the fourth day of said Term Came the Attorney General who prosecutes for the State as well as the defendant in his own proper person and having heretofore been charged on the Bill of indictment in this Cause plead thereto "not guilty" and now puts himself on his Country for trial and the Solicitor General doth the like, whereupon came a jury to wit Thomas Maxwell David Dalzell William Whittenberger, Notley Warren David Cuy Thornton Jeffries, Joseph Collins, Robert Porter, Joseph Layman John McCurtie, James Kirby, & John Dulling who being elected tried and sworn well and truly to say and true deliverance make between the good people of this State and the defendant at the Bar upon their Oaths do say the defendant Henry Lewsperd is guilty of the felony and Murder in manner and form as charged against him in the Bill of indictment whereupon he the defendant is remanded to Prison

And on Saturday the sixth day of the said Term Came the Attorney General who prosecutes for the State and the defendant being brought

to the Bar by Order of Court, Moved the Court for a new trial in this Cause, and after argument of Counsel being heard and mature Consideration thereon had by the Court, It is ordered by the Court that the Motion be Overruled

And the defendant by his attorney filed his reasons in arrest of judgment, and after argument of Counsel and mature Consideration had - It seems to the Court that the said Reasons and matters therein Contained are not good and sufficient in law to arrest the judgment and sentence in this Cause - And the defendant being asked by the Court whether he had any thing further to say why the sentence of the law should not be pronounced against him, Sayeth Nothing whereupon the Court proceeded to pronounce sentence - It is therefore Ordered and considered by the Court that the defendant Henry Lumsford for such his offence as charged in the Bill of indictment," be remanded to the prison of Blount County and there remain until friday the twenty sixth day of September next and then, that he be taken from thence to the Gallows place of execution and be hung by the neck until he is dead, And that the Sheriff of Blount County carry this judgment and sentence into execution And for so doing a copy of this judgment shall be his sufficient Authority, from which judgment and sentence the defendant prays an appeal to the next Supreme Court to be held at the Court House in Knoxville On the second Monday of

July in the Year 1829 in the nature of a writ of Error, and that the prisoner be and remain in prison accordingly -

Affidavit for New trial -

State vs Henry Lunsford } Blount Circuit Court August Term 1828

Indictment for Murder

Defendant makes Oath that he does verily believe that Keziah Thompson a principal witness for the prosecution is not entitled to Credit in a court of Justice, and that respectable witnesses, well acquainted with her general Character, can be produced to shew that she is not entitled to Credit - This defendant was informed previous to his trial, and did believe that several of the witnesses in attendance in this cause were sufficiently well acquainted with the general Character of said witness Keziah, to impeach her credit before the jury, but on their examination most of those called to that point, denied an acquaintance with her general Character or misunderstood the import of the question so that a further examination could not be had on the subject of her Credibility - This applicant was therefore taken by surprise, and unprepared for a fair and impartial trial - That he had been confined in Jail ever since the day after the Occurrence of the matter for which he was indicted, and had no friends or relations in this County until a short time since

to attend to, or prepare for his trial, that his Brothers who reside in North Carolina came here entire strangers, shortly before this Court, and were unacquainted with the citizens of the neighborhood in which said Keziah the witness, had formerly lived, and where her general Character was known, — affiant does believe if a new trial be granted to him he can by respectable & credible witnesses acquainted with the general Character of said Keziah shew that she is not entitled to credit when on Oath — This affiant further states that he is informed and does believe that after said Keziah had been examined before the Court & Jury, (being the first witness that was sworn) she the said Keziah went into the company of the other witnesses who were under the rule and in the care of an officer and commenced a conversation with said witnesses, who had not yet been examined this affiant has not been informed & does not know what conversation said Keziah had with the other witnesses, but is informed that her mixing with said witnesses while thus under the rule of the Court and the care of an officer was in violation of the rules of the court & the laws of the land, And affiant thinks it probable his cause may have been injured thereby — This affiant is informed and believes that some of the witnesses sworn and examined against him on the trial, did combine with the prosecutor & with each other and

Contributed or subscribed some amount to make up a fee with which to employ a lawyer to aid and assist the attorney General to prosecute this affiant which was done - this affiant did not know of this fact before or during the trial, and has only been informed of it since the verdict was rendered; that this information was given and derived from Mrs Nancy Snider wife of Thomas Snider, that she lives about 12 miles from this place, and started home very early on Yesterday Morning as affiant is informed and believes - Affiant has this Morning been informed for the first time that John Alexander a witness for the prosecution did say before the trial that he had or would throw in something to employ a lawyer to prosecute this affiant - This affiant therefore prays a new trial -

his
Henry Lumpford
mark

Sworn to & subscribed in Open Court 9 August 1828 Dan'l D. Kute Clk -

State
vs
Henry Lumpford

Blount Circuit Court,
August Term 1828.

Andrew Ferguson makes oath that while he and other witnesses were in the care of the officer under the rule & by order of the Court that Reziah Thompson who affiant understood & believed had been examined before the Court & jury, came to and got amongst Crowds close to the said witnesses, so as aforesaid under the care of

the officer, unobserved as affiant believes by the officer for some short time; this affiant does not recollect to have heard said Josiah Converse with any of the witnesses, and states that the attention of the officer was immediately called to the matter, who then removed said Josiah — affiant further states that after the witnesses were discharged, and while the concluding speech was making on the part of the prosecution, that John Alexander who had been sworn & examined as a witness on the part of the prosecution against the defendant told this affiant that he either had given, or would give something to pay the Lawyer to aid the attorney General in the prosecution of defendant. This affiant does not distinctly recollect whether said Alexander said he had given or would give something —

Sworn to & subscribed in Open Court 9th August 1828. Danl. L. Houk Clk

Andrew Ferguson

Reasons in Arrest of Judgment —

State of Tenn. vs. Jerry Lunsford

August Term 1828. In Blount County Circuit Court

The defendant prays the Court to arrest the judgment against him on the verdict of guilty rendered by the jury, for the following reasons

1st The instrument or weapon is not properly described, with which the mortal wound is charged to have been given —

2nd The time at which the death of Berry Thompson the deceased, did happen, is not certainly & properly laid

3rd The indictment is in other material and formal matters defective informal and insufficient — All which defendant is ready to shew and verify — Wherefore he prays an arrest of Judgment &c

Henry Lunsford

A Bill of Costs —

State tax	$1.00
Clk Cir & Court filing indictment 60 cents 24 subs & poenas at 12½ cts each 2 affidavits at 12½ cts. motion in arrest of judgt. $.50 cts judgment $1. larceny 50 cts 19 Robbs 14 cts transcript $1.62½ copy of papers therein 800 words 80 cts	9.46¼
Attorney Wilkinson	5.00
Justice Ferguson	.50
Shff W. Wallace Commitment 50 cts release 50 cts 23 subpoenas Exc. 25 cts jury 12½ cents 10 calls 1 cts	6.91½
Const Duncan 1 warrant Exc. 50 summoning 4 wits & return — conveying to jail 50 cts	2.00
Witnesses Jn Glass 1 day before justice 25 cts 4 days in Court	2.25
And Ferguson 1 day before justice 4 in Court	2.25
Hezeiah Thompson 1 — 4	2.25
Patty Thompson 1 — 4	2.25
Eli Richy 3 Days in Court 50 cts	1.50
Arona Wortha 4	2.00
Adam Hope 3 days	1.50
John Alexander 4 days. 50 cts	2.00
Rich Roberts 3	1.50
Sally Roberts 3	1.50
Eleanor Roberts 3 50	1.50
John Glass Sr 4 days 50 cts	2.00
Isaac Glass 4 days	2.00
Walter Weaver 4	2.00
William Weaver 4	2.00
Robert Larson 3	1.50
Nancy Snider 4	2.00
John Ferguson 2 days 50 cts	1.00
Rachael Glass 3 days 50 cts	1.50
	$59.37½

The State of Tennessee

I Daniel D. Foute Clerk of the Circuit Court of Blount County do hereby Certify that the foregoing is a true Copy of the Record & proceedings had in the Case The State against Nancy Lumsford in the Circuit Court of Blount County taken from the Original Now in my office

Given under my hand and (private having no public) Seal of Office at office in Marysville the 15th day of July A.D. 1829.

Seal

Daniel D. Foute Clk

Tax 1.00

Clerk H Brown

1 order	24	
1 habeas cor.	1.00	
fi fa	90	
transcript	160	
judgment	160	~~4.44~~
2 copies of judgt	3.20	8.04
Solicitor		5.00

Filed in this office the 27 day of November 1871

Henry Lumsford vs The State

Made out to the Attorney Genl

342
349

Henry Lumsford

vs

The State

1871

State of Tennessee in account with John C. Veal Jailor for Knox County for keeping Henry Lunsford in the Jail of said County in a suit the State against him and charge of murder July 17th 1829 up to August 3rd 1829 making 17 days at 2/3 per day is $6.37½

To 6. John Keys a 3/ 3.00

$9.37½

State of Tennessee } this day Personable
Knox County } appeared John C Veal

before me John Ballis one the acting Justice for said County and made oath that the sum of nine dollars and thirty seven and half cent as stated is just and true

Sworn to and subscribed August 19th 1829

J. C. Veal

Attest
John Bayless

Jail Fees

The State

vs

Henry Lumford

$9.37½

The State of Tennessee Dr.

To John Tedders

Jailor Blount County

To keeping Henry Lunsford from the

26. March 1828 to the 17. July

1829. in all 478 days at

thirty seven & a half cents pr day $178.75

Two Turnkeys 50 cts each 1.00

$179.75

John Tedders Jailor

Blount County.

John T. Atkins jailor of Blount county maketh oath in open court that the within account is just and true to the best of his knowledge

Sworn to before me
July 22. 1829
Ha Brown

Lumsford
v
The State