

STATE OF COLORADO,

County of

*Gilpin*

} ss.

IN THE DISTRICT COURT:

*June* Term, 1894

THE PEOPLE OF THE STATE OF COLORADO

VERSUS

*Antonio Benedict*

*Dodson*

*Humphrey Vaughan*

being duly sworn, deposes and says that he attended said court at this

*June* Term

at the instance of

*Plaintiff*

as a witness in the above

entitled cause

*one*

days, at \$ *2.50* per day, - - - \$ *250*

resides in *Russell Gulch* and has traveled *3* miles, at *15* cents per mile, \$ *45*

Sworn to and subscribed before me this

*20*

day of

*June*

A. D. 1894

*Richard Harvey*

Clerk.

*Humphrey Vaughan*

By

Deputy Clerk.

State of Colorado  
County of Gilpin } 20

In the District Court

The People of the State of  
Colorado

vs

Antonio Benedict

We the Jury in the above entitled case  
find the defendant guilty in manner and  
form ~~as~~ charged in the information

Newton D. Owen

Foreman

State of Colorado,  
Gibbin County, } ps.

In the District Court,

The People vs.

vs.

Antonio Benedict.

} motion in arrest of judgment.

Now comes the defendant, by J. W. Linnay,  
his attorney, and moves the court to arrest  
the judgment herein, and for the following  
reasons, to wit:

1. Because the record does not show that  
the defendant was furnished, previous to his  
arraignment, with a copy of the information,  
and a list of the jurors and witnesses.

2. Because the verdict is insensible, informal,  
insufficient and void.

3. Because the defendant did not have  
and was not allowed a public trial.

4. Because the defendant has not had  
a trial according to law.

5. Because the court erred in overruling  
defendant's motion for a new trial.

6. Because the information is insufficient.

7. Because the affidavits of jurors filed  
herein show that said verdict was returned  
through a misapprehension or mistake,  
and is not a true verdict.

J. W. Linnay,

att. for deft.

STATE OF COLORADO, ss.

IN THE SUPREME COURT THEREOF.

The People of the State of Colorado:

To the *District* Court of *Gilpin* County, and State of Colorado, GREETING:

Whereas, lately in the *District* Court of *Gilpin* County, State aforesaid, in a certain cause therein pending, wherein *The People of the State of Colorado* was Plaintiff, and *Antonio Benedict* was Defendant, the judgment of said *District* Court in said cause rendered was against the said *Defendant* -

And Whereas, the said cause was brought into our Supreme Court of the State of Colorado, by *Writ of Error* to said *District* Court:

And Whereas, at the *September* Term of our Supreme Court, in the year of our Lord one thousand eight hundred and *eighty-nine* the said cause came on to be heard before our said Supreme Court on the *21<sup>st</sup>* day of *September* A. D. 18*96* (the same being one of the juridical days of said term) and the following proceedings were had and entered of record in said cause, to wit:

*Antonio Benedict*  
*Plaintiff in Error* | *Error to the District* Court

No. *2109* vs.  
*The People of the State* of *Gilpin* County.  
*of Colorado* | *Defendant in Error*

At this day this cause coming on to be heard, as well upon the transcript of proceedings and judgment had in said *District* Court in and for the County of *Gilpin* as also upon the matters assigned for error herein: and the same having been heretofore argued by counsel and submitted to the consideration and judgment of the Court, and it appearing to the Court that there is no error in the proceedings and judgment aforesaid of said *District* Court, It is therefore **CONSIDERED AND ADJUDGED BY THE COURT** that the judgment aforesaid of said *District* Court be, and the same is hereby affirmed, and stand in full force and effect; and that this cause be remanded to said *District* Court for such other and further proceedings, according to law, as shall be necessary to the final execution of the judgment of said *District* Court in the cause, notwithstanding the said *Writ of Error* -

It is further **CONSIDERED AND ADJUDGED BY THE COURT** that said *Defendant in Error* do have and recover of and from said *Plaintiff in Error* its costs in this behalf expended, to be taxed, and that *it* have execution therefor. And let the opinion of the Court filed herein be recorded."

Now, Therefore, this cause is remanded to you, the said *District* Court, in and for the County of *Gilpin* and State aforesaid, that such further proceedings may be had in said cause as shall conform to the judgment of this Court, entered as aforesaid, as also with the opinion filed therein.

Witness the Honorable *William B. Beck*, Chief Justice of our Supreme Court, and the Seal thereof, affixed at my office, in the city of Denver, this *15<sup>th</sup>* day of *June*, A. D. 18*97*

*James A. Miller*

State of Colorado, } ss.  
SUPREME COURT,

The People of the State of Colorado

To the Clerk of the District Court of Sulphur County Greeting:

BECAUSE in the record and proceedings, as also in the judgment, in a suit which was lately in the

District Court of Sulphur County, before the Judge thereof, between

The People of the State of Colorado Plaintiff

and Antonio Benedict Defendant

of ~~the~~

manifest error hath intervened, as it is said, to the great injury of the said

Antonio Benedict

as we are informed; and we being willing that the said error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf; DO COMMAND YOU, if final judgment has been rendered, that you send to the Justices of our Supreme Court, at DENVER, in said State, with all convenient dispatch, a true copy of all the proceedings therein, together with a complete and perfect transcript of the record and proceedings of the suit aforesaid, with all things concerning the same, distinctly and openly, under the seal of your Court, together with this writ, so that the said Justices may have them at the place of holding the said Supreme Court, in DENVER, on the 2nd Monday of September A. D. 1894 that the record and proceedings aforesaid being inspected, they may cause to be done thereupon, for correcting that error what, of right, according to law, and the rules of said Court, ought to be done.

WITNESS, the HONORABLE Chas D Hays CHIEF JUSTICE

of our said Supreme Court, and the seal thereof, affixed at my office, in the city of DENVER, this 16th day of July A. D. 1894

James A Miller Clerk of Supreme Court

State of Colorado, }  
Huerfano County. } ss.

In the District Court.

The People etc.

vs.

Antonio Benedict.

Verdict.

As the jury find the defendant not  
guilty.

Forman.

State of Colorado,

Elgin County,

} vs.

in the District Court,

The People etc.

vs.

Antonio Benedict,

John Benedict, of lawful age, being duly sworn on oath according to law, deposes and says: That he is the brother of the defendant Antonio Benedict; that the trial of the defendant took place in said court on the 20<sup>th</sup> and 21<sup>st</sup> days of June, 1894; that immediately prior to the commencement of said trial the Hon. Clayton B. Butler, Judge of said court, ordered the public excluded from the court room during said trial, that nobody excepting members of the bar, officers of the court, students at law and the witness testifying should be permitted in the court room during said trial; that in pursuance of said instruction or order the Sheriff and deputy Sheriff of said county kept the door of said District Court room locked most of the time during said trial and excluded all persons therefrom except those hereinbefore mentioned and that during the small portion of time when said court room <sup>door</sup> was not locked during said trial that no one was permitted to enter and remain in said court room during said trial except those hereinbefore mentioned, and that the public was absolutely prohibited and prevented from entering into or remaining in the District Court room, or court, during the trial of said case and which trial occupied nearly two days. And deponent further

says that the defendant has and had many friends and acquaintances in said Gilpin County who were desirous of and who would have attended the trial of said case had they not been prevented from so doing by said order and instruction and the action of said sheriff and deputy sheriff in excluding the public from said court and rooms during said trial and further delinquent with out.

Jason B. Perreault

Subscribed & Sworn to before me this 30<sup>th</sup> day of June A. D. 1894.

H. Hicks County Judge  
Gilpin County, Colorado.

no. 590-  
The People vs.  
Antonio Ramirez-

affiant of John Ramirez in support of motion for a writ of Habeas Corpus

FILED  
IN THE DISTRICT COURT

JUN 30 1894

Richard H. Stanley



State of Colorado, }  
Higgin County. } ss.

Antonio Benedict,

Plaintiff in error,

vs.

The People of the State of Colorado,

Defendant in error.

Know all men by these Presents: That we, Antonio Benedict, as principal, and John Benedict, Louis Cattani, Bart Ebbi, Fortunato Salas, Paul Salas, Geo. Quincy, J. B. W. Schaff, R. Schumann, J. D. Edgar, R. B. Williams, Ed. L. Hughes, W. H. Smithall, Sam. V. Venable, Louis V. Venable, D. E. Seymour, R. L. Snyder, Anton Mellich, Dominio Strickland, Ben Olson, Joseph Waldhart, Howard Cook, John Beck and J. P. Davis as witnesses, all of the county of Higgin, State of Colorado, are held and firmly bound unto the People of the State of Colorado, in the penal sum of one thousand (1000.) dollars, lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly, severally and firmly, by these presents.

Witness our hands and seals, this 18<sup>th</sup> day of July, A. D. 1894.

The condition of the above obligation is such that whereas at the term term, 1894, of the District Court of the First Judicial District of the State of Colorado, in and for Higgin County, Colorado, to wit: on the 18<sup>th</sup> day of July, 1894, that being one of the judicial days of said term of said court, the said Antonio Benedict was by the consideration and judgment of said court convicted of the crime of sodomy, and whereas, the said Antonio Benedict

has applied to the Supreme Court of said State for a writ of error therein and has obtained a subpoena in said cause therein to operate as a discharge of said Benedict from custody upon his giving bond in the sum of one thousand dollars, according to law, with sureties to be approved by the Sheriff of said Logan County, Colorado;

Now, therefore, the conditions of the above obligation are such that if the said Antonio Benedict shall personally be and appear at the district court of the first judicial district of Colorado, in and for Logan County, Colorado, on the first day of the next term thereof and from day to day during said term, and on the first day of each subsequent term of said district court and from day to day during said subsequent term of said district court until the determination of said writ of error and shall personally be present and submit to such order of the said Supreme Court shall make in the premises and shall not at any of said terms of said district court depart the court without leave and shall submit to, abide by and perform such order and judgment as such court shall make in said cause, then the above bond shall be void, otherwise to be and remain in full force and effect.

Antonio Benedict

L. Gabre Benedict

Louis Patten

Bart Ebbli

Fortunato Salas

Peter Salas

J. S. Updegraff

J. S. Updegraff

J. M. D. Linnay

Seal

J. S. Updegraff

Seal

H. Shubauer

Seal

J. J. Oakes

Seal

W. Williams

Seal

Ed. G. Hughes

Seal

Wm. H. Quirk

Seal

Sam. V. Howell

Seal

Louis Tiger

Seal

B. E. Seymour

Seal

Ed. Snyder

Seal

Anton Wehrlich

Seal

Domenico Stanhina

Seal

Ben. Shaw

Seal

Joseph Waldhart

Seal

Harold Crook

Seal

John Slep

Seal

Ed. P. Davies

Seal