

the whole of the trial of said cause was kept
from^d out of said Court^d & Court rooms.

And further deponent saith not
Thomas Hooper.

Subscribed & sworn to before me this 30
day of June 1894



J. S. Wedegraph
County Clerk

By H. H. How Deputy

And said Motion and Affidavits
have each endorsements thereon

" Filed in the District Court June 30/1894

Richard Harvey
Clerk "

Record Book M. Page 239.

590 The People etc

vs

Antonio Benedict

} On Motion for new trial.

750

At this day comes A. D. Bullis Esq,
District Attorney who prosecutes the plea of
the people, in this behalf^d & the defendant comes by
his Attorney James M. Liveray Esq., and Motion for a
new trial coming on to be heard before the Court,
& the Court having heard the arguments of Counsel
as well on the part of defendant as that of plain-
tiff. The Court being now sufficiently advised
on the premises denies said motion. Defendant
excepts.

And thereupon said defendant filed a motion in arrest of judgment, which said motion is in words and figures as follows, to wit;

"State of Colorado }
Antonio Benedict }

vs }
The People, etc }

7.51

Antonio Benedict

Motion in arrest of Judgment.

Now comes the defendant

by Jas M D Livesay, 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, in person or by arrangement, with a copy of the information, and a list of the jurors and witnesses.

2. Because the verdict is unseizable, 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.

7.52

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 miscarriage of justice or mistake, and is not a true verdict.

J M D Livesay, Atty for Deft.

And said motion has an endorsement thereon, "filed in the District Court this 6th day of July 1894. Richard H. Fox, Clerk."

26

14
Antonio Benedict.

Now comes the District Attorney
A.W. Bullis Esq., who prosecutes the pleas of the People
in this behalf. And the said defendant Antonio Benedict
§ 53. is brought into court and by James M.V. Liray Esq.,
his Attorney also comes.

The motion for arrest of judgment heretofore
filed by defendant was denied by the Court, and
thereupon the said prisoner is brought to the bar
of the Court, and it is enquired of him if anything he
hath to say why judgment of the law should
not now be pronounced against him and he
nothing saith.

When it is considered by the Court that the said
prisoner be by the Sheriff removed hence to the common
jail of Gilpin County, and from thence conveyed by the
§ 54. said Sheriff with all convenient speed to the pen-
itentiary of the State of Colorado, there to be delivered
to the warden or keeper thereof to be by him kept
and confined therein at hard labor for the period
of one year from this day fully to be completed
and ended, to be fed and clothed as the law directs.

And it is further considered by the Court that
the said People do have and recover of and from the said defend-
ant Antonio Benedict its costs in this behalf laid out
and expended, to be taxed and have execution therefor. And
§ 55. thereupon the said prisoner Antonio Benedict is remanded
to the custody of the Sheriff.

Thereupon defendant excepts,
and prays an appeal to the Court of Appeals, which is
27. granted by the Court, and he is allowed sixty days
in which to prepare and tender his bill of exceptions.

The People etc }
vs } to amend Records
Antonio Benedict }

At this day comes again A. M. Bullis Esq., District Attorney who prosecutes the plea of the People in this behalf. And the prisoner is again brought into Court & by his Attorney James McHardy also comes.

And it having come to the knowledge of said District Attorney that the Record in the arraignment of said defendant Antonio Benedict fails to show that the accused was furnished with a copy of the information, a list of the People's witnesses and a list of the Jurors.

756 And thereupon moves the Court that the Clerk be permitted to amend the said Records as to show the fact that said defendant was furnished with a copy of said information, a list of the People's witnesses and a list of the Jurors at the time he was arraigned and before he was required to plead thereto.

The Court being now sufficiently advised in the premise by the statements of the District Attorney and the Clerk of the Court. Therefore,

757 It is ordered by the Court that the Clerk be and hereby is instructed to so amend said Record as to show the fact that said accused was furnished with such copy of information, list of People's witnesses and list of Jurors before he was required to plead thereto.

Defendant excepts to said motion and order of the Court.

Transcript of Proceedings

IN SUIT.

DISTRICT COURT

Chelpin County,

Term, 1894

Plaintiff of

People of the

State of Colorado

vs. Antonio Benedict

day of

A. D. 18

Printing Stationers, Chicago

JUDICIAL SUPREME COURT,

1894

Handwritten signature/initials

Upon inspection of the record and assignments of error filed herein; and upon consideration thereof, as also of the motion of said plaintiff in error for a SUPERSEDEAS, and for his discharge from custody upon bail pending a review by this Court of the proceedings and judgment of said District Court; and being now sufficiently advised in the premises, it is ORDERED that upon said plaintiff in error entering into a recognizance to the People of the State of Colorado, before the Sheriff of Chelpin County, conditioned according to law in such case made and provided, in the penalty of One thousand (\$1000=) Dollars, with good and sufficient sureties, approved by said Sheriff, that thereupon the writ of error herein be made and operate as a SUPERSEDEAS, and that said plaintiff in error Antonio Benedict District be discharged from custody pending the review of the proceedings of said District Court in said cause by this Court; and that the delivery to the said Sheriff of a duly certified copy of this order, and the filing and approval of the bond as aforesaid, shall be sufficient warrant to said Sheriff to discharge said plaintiff in error from custody until the further order of this Court in the premises.

Witness my hand at my chambers
 in Denver this 16th day of July 1894
 Luther M. Goodrich
 Judge of the Supreme Court
 State of Colorado