

Monday March 9th 1896

The State of Missouri
vs
Lee Smith } Attempted Sodomy

Now at this time the court
having duly considered the motions for
a new trial, and arrest of judgment
herein, and being fully advised there-
of, doth overrule each of said motions.

Monday March 23 1892

The State of Missouri
vs
Lee Smith } Attempted Sodomy

This day the defendant in his own proper person comes into court, to receive sentence, in pursuance of the verdict heretofore rendered against him.

It is therefore considered by the Court, that Lee Smith for his offense of attempt to commit the detestable and abominable crime against nature, and in pursuance of the verdict heretofore rendered against him, be imprisoned in the Penitentiary of this State, for the term of Two (2) years, that he pay the costs of this prosecution, and stand committed until this sentence be complied with.

Whereupon the defendant by his Attorney prays for an appeal to the Supreme Court of the State of Missouri, from the judgment just rendered against him, which said appeal is by the court granted.

Whereupon it is ordered by the Court that said appeal shall operate, as a stay of execution on the judgment herein until further orders from the said Sup.

Whereupon the defendant enters into recognizance to appear, in the said Superior Court, at the next term thereof, or at any other time when this cause may be determined, to receive judgment on said appeal, which said recognizance is in words ^{and} figures as follows, to wit:

STATE OF MISSOURI, }
CITY OF ST. LOUIS. } SS.

March Term, 1896

Be it Remembered, That on the *Twenty third* day of *March* A. D. 1896, personally came before *Thos. B. Harvey* ~~HENRY L. EDMUNDS~~,

Judge of the St. Louis Criminal Court, *Division Number 21*

Lee Smith (as Principal), and
George H. Smith and
Dennis Monahan (as Security)

and acknowledge themselves jointly and severally to owe to the State of Missouri the sum of *one thousand* DOLLARS,

to be levied of their respective goods and chattels, lands and tenements; yet, upon condition that if the said *Lee Smith*

shall appear in the Supreme Court of the State of Missouri, at the next term thereof, *or at any future term thereof, when required* to receive judgment on his appeal from the St. Louis Criminal Court, and in the St. Louis Criminal Court if the Supreme Court of the State of Missouri shall so order, and at such time and place as the St. Louis Criminal Court shall direct, and shall render himself in execution and obey every order or mandate that shall be made in the premises, then this recognizance to be void, otherwise to remain in full force and effect.

Lee Smith Seal
George H. Smith Seal
Dennis Monahan Seal

Taken and Certified this *23rd* day of *March* A. D. 1896

Thos. B. Harvey
Judge St. Louis Criminal Court.

STATE

VS.

APPEAL BOND

\$

Filed March 23rd 1896

Archibald Carr,

Clerk Criminal Court.

IN THE ST. LOUIS CRIMINAL COURT, DIVISION NO. 2.

STATE OF MISSOURI,

VS.

LEE SMITH.

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Attempted Sodomy.

Appearances:

For the State, C.O. Bishop, Esq.

For the Defendant, Messrs Claiborne & Anderson,

Be it remembered that on Wednesday, the twenty second day of January, A.D. 1896, the above-entitled cause came on for trial before Hon. Thomas B. Harvey, Judge of said court, and a jury, and the following proceedings were had therein:

The State to sustain the issues upon its part introduced evidence as follows, to-wit:

HENRY SPREEN,

Being duly sworn on behalf of the State testified as follows:

Direct-examination by Mr. Bishop,

Q. What is your name? A. Henry Spreen.

Q. Where do you live, Henry? A. 926 High Street.

Q. Do you live with your parents? A. Yes sir.

Q. Your parents are both living? A. Yes sir.

Q. What does your father do? A. He is a book-keeper.

Q. Where? A. I don't know where, he aint staying at home just at present.

Q. Where did you live in the early part of last year?

A. 2002 North Tenth Street.

Q. Between what streets is that? A. Between Chambers and Madison on Tenth.

Q. Were you living with your parents at that time?

A. Yes sir.

Q. What were you doing at that time? A. I was working.

Q. Where? A. The Stamping Company.

Q. Are you still with the Stamping Company. A. No sir.

Q. How long since you quit there? A. About four months.

Q. You are not doing anything now, are you? A. Yes sir.

Q. Where are you working now? A. Sperry's Knife Company

Q. Where is that? A. Between North Market and Monroe on Broadway.

24 Q. How long have you been there? A. About three or four months.

Q. Ever since you quit working for the Stamping Company?

A. Yes sir.

Q. How long have you been working altogether? A. I have been working ever since I was about eleven or twelve years old.

Q. How old are you now? A. Seventeen.

Q. Did you know this defendant, Lee Smith? A. I knowed him, yes, he was on the force--an officer.

Q. Did he walk the beat where you lived? A. Yes sir.

Q. For about how long? A. Since now?

Q. No, I mean how long had he been walking the beat there before this thing occurred? A. About five months.

Q. How long were you acquainted with him? A. About four months.

Q. Was he on night duty or day duty? A. He was on night and day both.

Q. Sometimes on the day, sometimes on the night?

A. Yes sir.

Q. Did he patrol the street where you lived? A. Sir?

Q. Did he patrol the street where you lived on that block? A. Yes sir.

Q. Did you get pretty well acquainted with him? A. Since he was on the force, yes.

Q. Did he live in that neighborhood, do you know? A. Lee?

Q. Yes? A. Not as I know.

Q. You don't know where he lived? A. No sir.

Q. Where would you generally see him? A. When he would come around the corners.

Q. Now do you know these other boys--Charley Majors, George Hoffman, Peter Walsh and Ed. Gilmore? A. Yes sir.

Q. I will ask you to state whether the defendant did anything to you, Henry? A. Sir?

Q. Did the defendant, Lee Smith, do anything to you?

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A. Yes sir.

Q. Do you know when that was? Can you state about when it was? A. Something around in April.

Q. Of what year? A. 1895.

Q. It was last year? A. Yes.

Q. Now I will ask you to state what, if anything, the defendant said to you about that, when he first said anything to you about that? A. We used to play around that corner up there and he would come around and he would let us tap his club, would leave us tap his club on the pavement; and then once when I quit going with those fellows then I started playing with them other fellows on Second and Clinton, then he used to come around down there too. One day I was coming up with a load of wood and he stopped me. He says: "Where are you going?" I says: "Home with the wood." He didn't say nothing to me then. And then another time when I was down on Clinton Street he grabbed hold of my shirt. I says: "Let loose, Lee, I have to go home." ^{Then} nine o'clock bells were ringing. I says: "I have to go home, there's the nine o'clock bells ringing." He says: "Oh, you can stay out until half past nine or ten o'clock." I says: "No." Then I turned around and broke away from him and he tore my shirt, and so I run home. Then there was another night I was down that way playing around the street and he come up again and he grabbed me and this other fellow and he says: "Come on along, or I'll arrest you." We went along with him and he brought us down in that lumber yard across the street from Gaus's. He brought us down there and he says: "Lay down there now, or I'll hit you with this club." Of course if he had that other fellow first I would have got away from him, but he had me first, so I couldn't get away from him. So he

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says: "Lay down there now, or I'll hit you with this club." I begged to get off, but he wouldn't let me. He said if I wouldn't do what he wanted me to he would arrest me or hit me with that club, so I had to do what he wanted me to.

Q. What did he do? A. He says I must lay down there. If I wouldn't lay down there he would stick this in my back, this here club of his. I laid down and I stripped down my pants and he says: "I want to fuck you now."

Q. Now what time was this? A. This was a different time, after he grabbed me.

Q. Well, I know, but what time was it? A. Night time.

Q. About what time at night? A. About half past eight or quarter to nine.

Q. And where was it he met you that night? A. Second and Clinton, a block away from Broadway.

Q. Was that on his beat? A. I suppose so.

Q. Well, he was walking there, was he, at that time?

A. Yes.

Q. Did he have on his uniform? A. Yes sir.

Q. And you say he carried his club with him? A. Yes sir.

Q. Now where was this lumber yard he took you to? A. Sir?

Q. Where was this lumber yard he took you to? A. Across from Gaus's.

Q. Where is Gaus's? A. Well, it's a block away from the Levee.

Q. Well, on what street is it? A. On Second Street I suppose.

Q. Was this an open lumber yard? A. Yes.

Q. Was it East or West of the car tracks? A. East.

Q. I am speaking now about the Wabash and Burlington tracks---do you know where they are? A. Yes, it's towards

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Broadway.

Q. Well, I mean is it this side of Broadway or ~~on~~ the river side of the tracks? A. I don't understand you.

Q. You know where the Wabash Railroad track is, don't you, that comes down there? A. Yes sir.

Q. Is this lumber yard between the track and the river or between the track and Broadway? A. Between the track and Broadway.

Q. About how far was that from the place where he met you and took hold of you? A. Two blocks it was.

Q. How were you dressed at that time? A. I had on a blue shirt. It was kind o'cool then and I didn't wear no coat or nothing. I had on a blue shirt and my suspenders and a pair of long pants and my little cap.

Q. Was it a woolen shirt? A. No sir, it was a blue calico shirt.

Q. How far into the lumber yard did you go? A. How far in it?

Q. Yes? A. About half ways, right about the middle.

Q. You say you laid down? A. Yes.

Q. And what did he then do to you? A. He says: "Let me fuck you."

Q. I am not asking you what he said, you have stated that; what did he do, now just state all that he did? A. He unbuttoned his pants and he took out that what you call it and he says: "Now let me fuck you."

Q. He unbuttoned his pants and took out his privates, then what did he do? A. He done it then.

Q. Just state now what he did? A. He unbuttoned his pants and took out his privates and then he fucked me.

Q. How did your pants get down? A. He unbuttoned them.

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He took them down, slung the suspenders over my shoulders.

Q. In what position were you at the time? A. I was standing up and he says: "Git down there now." And I had to do it or be hit with the club.

Q. Were you lying on the ground? A. No, he says I should lay on the plank.

Q. On the plank? A. Yes sir.

Q. Well, were you lying at full length? A. Yes.

Q. On your belly? A. Yes.

Q. Did he get on top of you? A. Yes sir.

Q. Did you feel his private parts? A. No sir, I was going to get up and he wouldn't let me get up. He was holding me down with his hands, and he says: "Cross your legs over and I'll put it between your legs."

Q. I say did you feel his privates? A. No sir.

Q. What was his position while you were lying on the board? A. I don't know, sir.

Q. Eh? A. I don't know what he wanted, I suppose he wanted to---

Objected to.

Q. Never mind that. I asked you what his position was. Was he on you, or what? A. Yes sir, he was on me.

Q. Was that the only time he ever did that? A. Yes sir.

Q. And that you say was between eight and nine o'clock in the evening? A. Yes sir.

Q. And in this lumber yard you say opposite Gaug's place?

A. Yes sir.

Q. Do you know what date that was? A. Sir?

Q. Do you know what date that was? A. No sir, it's been a good long while, a good time ago.

Q. Do you know what month it was in? A. Something around like April.

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Q. Of last year? A. Yes sir.

Q. Are you sure it was last year---1895? A. Yes sir.

Q. How long were you there with? A. About five minutes, or three minutes.

Q. How long were you in this position on this board lying on your back? A. About a minute or two.

Q. BY JUDGE CLAIBORNE: How long, son? A. About a minute or two, or three.

Q. Now what occurred afterward, after that? A. I don't know what occurred when he let me up, I run home.

Q. You ran home? A. Yes sir.

Q. Did you ever meet him afterwards? A. Yes sir.

Q. Did he ever say anything to you about this? A. I was going up to the police station to tell on him, then he run me away from the corner.

Q. How soon did you make complaint about this? A. About a week after I went up to the police station and told them that he was beating me and everything, and they said they would attend to it.

Q. This all happened in the City of St.Louis? A. Yes sir.

Q. And this is the man here, Lee Smith--this is the one that you speak of? A. Yes sir.

CROSS-EXAMINATION BY JUDGE CLAIBORNE.

Q. Johnnie, how old are you? A. I am seventeen years old.

Q. You go to school? A. No sir, I work.

Q. You don't go to school now? A. No sir.

Q. You did go to school, though? A. Yes sir.

Q. And you learned to read and write? A. Yes sir.

Q. And then you went to work? A. Yes sir.

Q. To help your parents make a living? A. Yes sir.

Q. And where did you work, my son? A. For the Stamping

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Company.

Q. Then you went from there to where? A. To Sperry's Knife Company.

Q. How long do you say you have known Lee Smith, the police officer here? A. About four months, something around like that.

Q. You lived on the beat that he walked, did you?

A. Yes sir.

Q. Where did you live at that time? A. When he used to walk that beat?

Q. Yes, when he walked that beat? A. 2002 North Tenth Street.

Q. Then you lived right on the beat that he walked?

A. Yes sir.

Q. You saw Lee then every day and every night? A. No sir, because I would be working and I couldn't see him in the day time.

Q. Then you saw him at night? A. Not all the time, I would go to night school three nights out of the week.

Q. When you come from your work you would go out on the corner like any other little boy would? A. Yes sir.

Q. He had a good deal of trouble with you boys, didn't he? A. Well, I don't know.

Q. He had a great deal of trouble, didn't he? He had a great deal of trouble with you boys, didn't he? A. Yes sir.

Q. And he used to run you off the corners every night or two? A. No sir.

Q. How often would Lee run you off the corner? A. Lee never would run us until we wouldn't do as he says; at last then he would run us.

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Q. Didn't he run you off before he attempted to do anything? A. Not as I know, because I wasn't up there on that

corner then.

Q. Lee never arrested you, did he? A. No sir.

Q. Never told you if you didn't go home and stay there that he would arrest you? A. Yes sir, he did once.

Q. Didn't he tell you that many a time? A. May be when I was asleep, I didn't hear him.

Q. Don't you know now that Lee Smith was a terror to the boys up there? Now isn't that so?

Objected to; objection sustained.

Q. Isn't it true now that the boys up there regarded Lee Smith as a very bad man? A. No, they says he was a nice man.

Q. Well, didn't the boys run whenever he came to the corner? A. No sir.

Q. Well, wasn't Lee always ordering the boys off the corner? A. At last he would.

Q. How many times did Lee order you away from that corner? A. I didn't count them, I suppose about once or twice.

Q. Don't you know ~~XXXXXXXXXXXX~~ he ordered you a many a time if you didn't leave those corners that he would arrest you? A. No.

Q. Don't you know now that there was a conspiracy formed by the boys up there to do Lee Smith up? A. Not as I know of.

Q. Haven't all you boys got together and said "we have got it in for Lee Smith and we will get even with him?"

A. Nothing like that mentioned by me.

Q. Don't you know all the boys liked Lee Smith? A. Oh, we liked him because we could stand around the corners; he let us do anything we wanted to.

Q. Didn't he always try to order you off the corners?

A. At last he did.

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Q. Now you say that you had known him for about four months? A. Oh, about that.

Q. Just about four months? A. Yes.

Q. And that Lee Smith once, you say, attempted to arrest you, did he? A. No sir.

Q. Well, what did you say about that? A. Oh, he grabbed me on the shoulders.

Q. What did he say? Why did he grab you on the shoulders? A. He says: "Come and let me fuck you."

Q. He was then in his uniform, was he? A. Yes sir.

Q. And that was right in one of the largest crowds of people that assemble in St. Louis; there is always a large crowd there, is there not? A. No sir.

Q. Aint there? A. No sir.

Q. Why, aint there boys and men and women all the time standing upon those corners? A. No sir.

Q. And Lee told you to come on with him? A. This was down on Second Street and Clinton.

Q. What were you doing down on Second and Clinton?

A. We was playing, to keep away from Broadway, so we wouldn't be making any noise for other people.

Q. Why were you keeping away from Broadway? A. So we wouldn't make no noise. Lee told us if we wanted to play we could play, but not to play down on Broadway. Lee says that we make a little bit too much noise up that way, so we could go down on Second Street and play.

Q. ~~Then~~ Lee had driven you boys away from Broadway, had he? A. He didn't drive us. He says we should go and play down there.

Q. How many times did he tell you to go away from Broadway? A. I never counted them.

Q. Well, about how many times? A. Oh, about one time. We never stayed there, we went down to Second Street.

Q. Didn't he drive you off from those corners or tell you to go away many times? A. About once or twice.

Q. Will you say now it probably might have been twice?

A. Yes.

Q. Well, now, wasn't it a dozen times? A. No, it wasn't.

Q. Now, wasn't you boys reported to these officers?

A. It wasn't a dozen times.

Q. Well, don't you know that you boys were reported as a common nuisance, and Smith was ordered to keep you off the corners? A. May be he had orders to keep us off, but he didn't do what his orders said.

Q. Well, didn't he keep you off? A. No sir.

Q. Didn't he try to do it? A. He tried it once.

Q. You said awhile ago twice? A. That was once on Broadway and once on Madison.

Q. Has he tried anywhere else to keep you away?

A. No, he didn't try to run me away from anywheres else.

Q. Now, who put you up to make this charge against Lee Smith? A. Nobody put me up at all. I like to tell the truth, and nothing but the truth.

Q. Any newspaper reporter? A. No sir.

Q. Any newspaper reporter? Now, son, answer the question---any newspaper reporter come to you? A. No sir.

Q. What? A. No sir.

Q. No newspaper reporter? A. No sir.

Objected to; objection overruled.

Q. Now, you were before the Grand Jury? That is, you were upstairs in this building--above here? A. Yes sir.

Q. In the month of July? That is true, isn't it?

A. I don't know just exactly what month it was in.

Q. Well, it was very hot weather, wasn't it? A. I never took particular notice what kind of weather it was.

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Q. Then you swore before the Grand Jury that Lee Smith attempted to do this to you on the third day of March, didn't

you? A. I don't know what day of March it was, if it was March or not.

Q. Well, didn't you tell the gentlemen of the Grand Jury that it was the third day of March? A. Not as I remember. I couldn't remember away from that time.

Q. If you told them at that time it was on the third day of March, then it was fresher in your memory than it is now, wasn't it? If the Grand Jurors say that you appeared there in July and testified that this happened on the third day of March, your memory was fresher then than it is now?

Objected to; objection overruled.

(No answer).

Q. Well, you did appear before the Grand Jury? A. Yes sir.

Q. And you don't know now when you told them it occurred, do you? A. I don't know how long ago it was.

Q. Whether it was the year before that or six months?

A. Oh, it wasn't a year ago.

Q. Well, how long was it before you went before the Grand Jury that this thing occurred? A. About three months--two months, something like that.

Q. Eh? A. About two or three months.

Q. Now, that is as near as you can come at it? (No answer).

Q. Now, I come back to the next proposition. Did you have a conversation with one of the reporters of the Chronicle?

A. No sir.

Q. Did you have a conversation with any newspaper reporter? A. No sir.

Q. Did Mr. Mc. Intyre have any conversation with you?

A. No sir, he didn't.

Q. Did Mr. Stewart have any conversation with you?

A. No sir.

Q. How did you happen then to relate this affair?

A. Because I was coming up North Market Street one night and the Sergeant had some boys and he says I should come along, because I knowed them. So I says: "Where are you going?" He says: "Down to the police station." And the Sergeant says I should come along with him. He says if I know anything about it I should tell the truth.

Q. Had you had any conversation with the Sergeant?

A. No sir, I didn't, only the Sergeant told me if I knew anything about it I should come, and if I didn't it would be all right.

Q. Told you about what? A. If I knew anything about Lee Smith, what he had done.

Q. The Sergeant told you if you knew anything about Lee Smith to come? A. Yes sir, if I knew anything about him.

Q. Well, is that your answer? A. Yes sir.

Q. Then you went? A. Yes sir.

Q. And then you told the Sergeant in the station house?

A. I didn't tell the Sergeant.

Q. Who did you tell? A. Told the Captain.

Q. Well, you told the Captain then, you told the Captain that Lee Smith done nothing to you, didn't you? A. No, I didn't.

Q. Aint that the written record, now, that you first said Lee did nothing? A. No sir.

Objected to, the written record will speak for itself; objection sustained.

Q. Then the Captain took your statement down in writing?

A. I suppose so.

Q. Eh? A. I suppose so.

Q. Well, didn't you see him take it down, my young man?

A. I wasn't just looking at him what he was doing.

Q. Well, didn't you first say to the Captain that Lee Smith did nothing to you? A. No sir.

Q. What did you say?

Objected to; objection overruled.

(No answer).

Q. Didn't you state to the Captain that Lee Smith did nothing to you? A. No sir, I didn't.

Q. Then didn't you state to the Captain afterwards that Lee Smith laid down on top of you and put his privates between your legs? A. I says that.

Q. You said that? A. Yes sir.

Q. Didn't you tell the Captain that all Lee Smith did was to put his privates between your legs and that was all he done? A. No sir.

Q. Well, what did you tell him? A. I told him he grabbed a hold of me one night too.

Q. Oh no, I mean upon this occasion. Didn't you say that all Lee Smith did to you was that he put his privates between your legs and made you cross your legs and work between your legs? A. Yes sir.

Q. Didn't you tell the Captain that he didn't try to put his privates in your behind? A. I says he told me to cross my legs.

Q. Did he try to put his privates in your behind?

A. He tried to put it between my legs.

Q. Did he put it anywhere else but between your legs?

A. Not as I know of, I didn't watch him.

Q. Did he try to put it ~~xxxxxx~~ in your behind? Didn't he, just as you told the Captain, put it between your legs?

A. Yes sir.

Q. And you crossed your legs? A. Yes sir.

Q. And then all he did was to put his privates between your legs? A. I suppose so.

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Q. He didn't put it in your behind? A. I didn't watch him.

Objected to as incompetent, immaterial and irrelevant; objection overruled.

Q. Did Mr. Lee Smith attempt to put his privates in your behind? A. I suppose he did.

Q. Now I didn't ask you what you supposed. What did he do? A. Pulled out his privates and he says: "Lay down." I says: "No, you will hurt me." He says: "Come on, or I'll stick this club in you." I laid down and he says: "I'll put it between your legs, and it won't hurt you then."

Q. Now did he attempt to put it in your behind? You know what your behind is? A. Yes.

Q. Did he? A. Not as I know.

Q. You know what your behind is? I mean the place that you do your business from when your mother gives you a little castor oil. He didn't try to put it in there, did he? A. I think he did.

Q. What? A. Yes, he did.

Q. He did try to put it there? A. Yes, he did.

Q. Why, didn't you just say he told you he would put it between your legs, where it wouldn't hurt you? A. He wanted to put it there.

Q. Did he put it there? A. No.

Q. Did he try to put it there? A. Yes, he tried to, but he couldn't.

Q. Well, what did he do? A. He tried, but he couldn't. He was trying to hold that other fellow.

Q. Now you say he did try to put it there? A. He tried it, but I moved away from him.

Q. Did you gather that from the argument made here in the court room? A. No sir, I know he did.

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