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KELLEY AND DAVIDSON CONVICTED OF MURDER

But Jury Recommends Them to Mercy of the Court, Which Means Life Imprisonment.

PALATKA, Fla., June 26.—(Special)—Following is the verdict in the Kelley-Davidson murder case:

"We, the jury, find defendants, James M. Kelley and D. M. Davidson, guilty of murder in the first degree, and recommend them to the mercy of the court. Thomas Murray, foreman."

The above verdict was rendered a few minutes before 11 o'clock this morning in the case of Kelley and Davidson, charged with the murder of Night Watchman W. C. Sellars of the Atlantic Coast Line at High Springs three years ago. The jury worked on the case until after 2 o'clock this morning, and retired worn out. They reported that a verdict had been reached at 10 o'clock, but the court sent them back to the room on account of the verdict not being properly made out, as no degree was mentioned.

The court room was crowded early by persons anxious to hear the verdict. The prisoners took the verdict calmly, Davidson's daughter being by his side when it was announced.

Court adjourned after receiving the verdict until 2 o'clock today, when motion will be made for a new trial. This motion will of course be denied, when an appeal will be taken to the Supreme Court.

Life Imprisonment at Hard Labor.

PALATKA, June 26.—7:30 p. m.—(Special)—Court reconvened at 5 o'clock this afternoon, when motion for a new trial in the Kelley and Davidson case was denied. A writ of error was filed and an appeal will be taken to the Supreme Court. The prisoners were sentenced to life imprisonment at hard labor.

When the men were asked what they had to say why sentence should not be passed upon them, Kelley said: "I accept the verdict of the jury, but so far as D. M. Davidson is concerned, he is as innocent of any connection with this crime as any man within the hearing of my voice."

The prisoners accepted the sentence as calmly as they received the verdict.

WEDNESDAY'S PROCEEDINGS.

From Friday's Daily Sun.

PALATKA, June 24.—Notwithstanding that the famous case of the State of Florida vs. James M. Kelley and D. M. Davidson, charged with the murder of W. C. Sellars at High Springs, is coming to a close within the next two days, and that a majority of the evidence has been submitted, the case appears to still be a drawing card, and the court house is filled daily with spectators who appear anxious in either one way or another in the outcome of the trial.

Court opened Wednesday morning with the usual large crowd in attendance, and this crowd remained during both sessions, several refusing to go to their dinner in fear that they would lose their seats.

The court convened at 8:30 a. m., a half hour earlier than usual.

H. L. Thomas, first witness for the defense on Tuesday, was recalled by State for purpose of cross-examination.

Witness stated that he is a native of Augusta, Ga., is a machinist by trade, and was employed in the shops of the A. C. L. at High Springs for six or eight weeks prior to the killing of Sellars, and for several weeks after the homicide. Witness related practically the same story as related on the stand Tuesday. When asked by counsel for State if he had ever been convicted on any crime, witness replied that he had been convicted one time in Savannah, Ga., in 1900, for assault and battery upon the person of a negro.

Mrs. Smith Recalled.

Mrs. Fannie Smith was recalled. Stated that her husband was a machinist, and was employed in the shops of the A. C. L. at High Springs at the time of the killing of Sellars. Witness stated that she had resided in High Springs upon two occasions, the first time in 1903-4, the last time in 1906. She testified that her husband was also a jeweler, but denied that he was engaged in that business in Micanopy in 1906, when questioned on that point.

A. L. Perry resides at Adel, Ga. Resided in Waycross, Ga., in 1906. Was flagman on A. C. L. between Waycross and High Springs. Was in High Springs on the night Sellars was shot. Was standing on station platform with a number of men, among whom was Davidson. Two men, one of whom was Mr. Smith, came up and they appeared to be armed with guns. Smith called Davidson off, and the trio walked away. In a short time the guns were fired, and, believing that Davidson had been shot, witness ran to the restaurant and reported same. A few seconds later Davidson followed him into the restaurant, exclaiming that a man had been shot, and suggested that "we go and see if we can find the man who did it." Kelley was in the restaurant at the time witness rushed in.

J. W. McIlvaine was in High Springs the night of killing of Sellars. Was employed in Davidson's restaurant, and was in the restaurant, on duty, at the time the guns were fired. Kelley was in the restaurant, seated at a table, where he had ordered his supper. There were also several others in the restaurant, but witness could not remember all their names.

Immediately after the report of the guns someone rushed into the restaurant and reported that Davidson was killed. He was busy, and did not recognize the man. In a half minute Davidson entered, reported a man was shot, and he, with others, went to the scene. Witness then armed himself.

Upon cross-examination witness denied that he was walking on the railroad track previous to shooting on night Sellars was killed, or that he had on his person, or fired a gun. He also denied having been attired in a rain coat at any time that night. When asked if he did not leave High Springs for Archer the following day, witness replied that he did not, but remained in High Springs for about two months.

B. B. Hopson a Witness.

B. B. Hopson was in High Springs in March of this year. He had a conversation with Peter Burkhart. Witness and Burkhart were both employed by the Atlantic Coast Line. In conversation witness stated in substance that Burkhart told him he "stood in" with the "big fish" of the railroad, and had a life-long job in black and white, and if he (witness) would get in, he (Burkhart) could arrange matters all right. Burkhart, so witness stated, wanted him to testify against Kelley. Burkhart told witness that there would probably be others implicated, intimating Davidson, and asked witness how he and Davidson stood, when witness replied that he (witness) had "cut him out." Witness told Burkhart he would see him later.

On cross-examination, witness stated that he and Burkhart had at one time a little trouble, but it was not serious and was amicably adjusted.

Jim Cloud of High Springs said upon one occasion, after killing, Burkhart approached him and asked him, what he was doing, to which witness replied that he was out of employment. Burkhart then told him he would give him a job if he (witness) would do as he told him. Witness wanted to know the nature of the duties Burkhart expected of him, when Burkhart replied that friends of Kelley were going to try and prove that he (Kelley) was in Davidson's restaurant when the gun which killed Sellars was fired; and that he (Burkhart) wanted witness to swear that he was in the restaurant at that time, and that Kelley was not there. Witness then turned and left Burkhart.

When asked if he was in the restaurant at the time Burkhart wanted him to swear he was, witness replied that he was not.

Dr. J. O. Coller, a dentist of High Springs, was next called, and related the subject of a conversation between himself and Burkhart early in April of the present year in High Springs, in which Burkhart told him that he had been reinstated by A. C. L. under agreement that he would tell the truth against Kelley and Davidson in this case. Burkhart had previously lost his position on the railroad. Burkhart also told witness that he had applied to Davidson for a job before returning to the railroad for employment, but was refused.

D. B. Taylor, manager of the High Springs Ice Manufacturing Co., related a similar story regarding what Burkhart had told him.

Davidson's Daughter Testifies.

Mrs. Emma Edmondson, daughter of D. M. Davidson, one of the defendants, was placed on the stand. Witness was in High Springs on the night Sellars was killed, and heard the shots. She was seated on the front piazza of her father's home. J. H. Fields was seated with her. Fields related to witness that there was a "spotter" in town from Tampa, who had been sent to break up a lot of car stealing, and that he would not be surprised if there should be some trouble that night. When the report of the gun was heard Fields arose and exclaimed: "There! I expect somebody is shot!"

On cross-examination, witness stated that Fields came to her home about an hour and a half before the killing; that upon hearing report of the gun he left and went in the direction of the shooting; and that he returned to her home about thirty minutes later and informed her that Sellars had been shot.

Witness stated that she was engaged to be married to Fields at that time.

The court took a recess for a few moments, after which Walter A. McNally, bookkeeper for the El Perfecto Cigar Manf. Co., Palatka, was called. Witness resided in Savannah; knew D. W. Jernigan, one of the witnesses for the State. At this juncture Jernigan was produced before the witness, and was identified. Witness testified that Jernigan's reputation for truth and veracity at the time he (witness) was in Savannah was bad.

S. R. McDowell was a resident of High Springs at the time Sellars was shot, and was employed as a meat cutter by Davidson. Did not know Sellars personally, and did not know he had been shot until the following morning.

J. L. Shaw, a State witness, was recalled by request of defense, and questioned as to a conversation between himself and one C. C. Martin, in Lake City, regarding this case. When asked if he did not tell Martin upon the occasion referred to that some people in High Springs had it in for him (the witness) and that he intended to get even with Kelley and Davidson in this case. Witness replied that he did not.

Court took a recess until 2 o'clock p. m.

Afternoon Session.

The afternoon session was called to order at 2:15, the prisoners being a few moments delayed on account of a conference with their lawyers.

J. M. Smith, State's witness, was recalled by request of defense. Witness stated he saw Kelley about five minutes after the shooting of Sellars. He knew Berry Daniels, and was questioned regarding a certain conversation he had with Daniels.

Berry Daniels resides in Waycross, Ga. Is an engineer in employ of Atlantic Coast Line, and on June 6 J. M. Smith told him that he (Smith) was in the waiting room three minutes after Sellars was shot.

Kelley on the Stand.

James M. Kelley, one of the defendants, was placed on the stand.

Kelley stated that he was sent to High Springs on July 12, 1906, as night engine foreman. Arrived in High Springs at 6 o'clock on the same date, and assumed his duties immediately. Kelley described minutely his movements on the day and night preceding the killing of Sellars, and proved a most interesting witness both to the jury and the spectators, as was evident from the close attention paid his remarks. Witness stated that his regular hour to go on duty was 6 o'clock in the evening. On the same day that Sellars was shot he arose at the usual time in the afternoon, and was on the minute to assume his regular work. He described minutely the movements of himself and crew during the early evening, and up to the time he placed the engine on the scales, about one hundred yards distant from where the shooting occurred. When the engine had been placed on the scales, he left immediately and went to Davidson's restaurant to get something to eat. This was about 11 o'clock, or as near as he could arrive at the hour. On his way to the restaurant he passed Davidson and two or three other men standing near the passenger depot platform, but thought nothing unusual of it, as people were always standing in the vicinity of the depot. He went to the restaurant, where a man by the name of McIlvaine was on duty. He ordered something to eat. There were several men in the restaurant whom he noticed casually, but could not recall all their names. While he was seated at the table, a few moments after he came in, and was waiting for his supper, he heard two shots, and in an instant some person whom he did not recognize rushed in the door and exclaimed: "Boys, Shorty Davidson (referring to D. M. Davidson) is shot." There was some confusion, but in an instant Davidson arrived with the information that a man had been shot at the depot, and Davidson suggested that a crowd be organized to go down and see if they could not find the man who did the shooting. The witness, with others, immediately left the restaurant and went to the scene of the shooting, where he saw a man laying down. The man was wounded. He did not even know the man, and asked his name. He assisted in picking him up and placing him on a stretcher.

On cross-examination witness stated that he did not know Sellars, and

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MRS. GOULD WINS HER SUIT FOR SEPARATION

Judge Vindicates Her of Improper Conduct---Gets Only $36,000 a Year Alimony.

NEW YORK, June 26.—After a trial which lasted nearly three weeks, Katherine Clemmons Gould obtained a legal separation from her husband, Howard Gould, third son of the late Jay Gould, by a decision of Justice Dowling in the Supreme Court yesterday.

With the exception of alimony, her victory was complete, but in this phase of the case the court decided that $36,000 a year was sufficient, although in her suit Mrs. Gould asked for $250,000. She has been receiving $25,000 a year from Mr. Gould, so that the amount fixed by the court is but a slight increase compared with the amount sued for.

It was in her vindication of charges of intoxication and her alleged relations with Dustin Farnum, the actor, that Mrs. Gould scored most strongly, for notwithstanding the long array of witnesses for Mr. Gould, who gave such testimony as to make Mrs. Gould appear at times as defendant rather than plaintiff, the court held that the alleged "intoxication" might have been due to excitement. As to Dustin Farnum, it was held that her association with him came after Mr. and Mrs. Gould separated and that the husband apparently made no objection.

Shearn Gets $17,000.

Immediately after the decision Delancy Nicoll, for Mr. Gould, asked for a sixty-day stay of judgment, and Clarence J. Shearn, for the plaintiff, was on his feet to object. He asked for an immediate judgment. Justice Dowling compromised by making the stay thirty days. Mr. Shearn asked for an extra allowance for counsel fees and the court gave him $2,000. This, together with the $10,000 allowed recently and the original allowance of $5,000, will bring his fees to $17,000, with an additional sum of $3,900 for expenses.

Friends of Mrs. Gould began to crowd about her as soon as the decision was announced. She had been somewhat lonely during the trial, but after the verdict she was kept busy receiving congratulations. As the decision was read she kept her head cast down and seemed plainly disappointed by the allowance. As soon as the case was closed, however, she shook hands warmly with Mr. Shearn and thanked him for his conduct of her case. Then she beamed upon her friends and even smiled upon the downcast trio of lawyers who had fought for her husband's interest.

Mrs. Gould Beaming.

Mr. Shearn, jubilant at the decision, was eager to discuss it.

"Judge Dowling's decision," he said, "is a sweeping and complete vindication of Mrs. Gould. That has been the object of all this bitter litigation. Mrs. Gould could have compromised for a fortune at any time, but would never consider for a moment anything but the opportunity of clearing her name in an open, public trial."

He added that either party in the suit could still bring action for absolute divorce, but that Mrs. Gould could not base such an action on charges involved in the suit just decided. Mrs. Gould's dowry rights in Howard Gould's real estate amounts to $3,000,000, he said, and was unaffected by the separation. His client, he continued, was going to Virginia for a one rest.

Mrs. Gould issued the following statement:

"I am the happiest woman living tonight because I have been so completely vindicated before the entire world of all these horrible charges. Not one little pang shot through my heart at the smallness of the allowance—only supreme joy and the deepest gratitude. I send a thousand loving thanks to all who have helped me."