

State of Colorado }
Gilpin County } ^{vs.} In District Court.

7. 29. The People etc }
vs } Verdict
Antonio Benedict }

We the jury find the defend-
ant not guilty.

Said instruction is endorsed, "Filed in
District Court June 21st / 1894.

Richard Harvey
Foreman.
Clerk."

Record M Page 237 June 21st / 1894

590 The People etc }
vs } Sodomy
Antonio Benedict }

At this day comes again
O. W. Bullis, Esq., District Attorney, who
prosecutes the pleas of the People in
this behalf, and the said defendant
Antonio Benedict, is brought into
Court ^{and} by James M. W. Lively his Attorney
also comes, and thereupon comes
again the said Jurors ^{and} on their
oathes say:

7. 30 " State of Colorado } In District Court
County of Gilpin }
The People of the State of Colorado }
vs } Verdict
Antonio Benedict }

We the Jury in
Page 14. the above entitled cause find the

defendant guilty in manner and
form charged in the information

H. W. Owen

foreman "

And thereupon defendant excepts
to the verdict and, gives notice that he
will file motion to set aside the verdict
for a new trial. Whereupon it is
ordered by the court that said motion
be filed on or before the 30th instant
and that said motion be argued before
l. 31 the court on July 5, 1894.

And thereupon comes the said defendant
and files his motion for a new trial
which said motion is in words and
figures as follows to wit:

State of Colorado }
County of Gilpin } 20

vs

Don District Court.

The People of the State of Colorado }

vs
Antonio Benedict.

} Motion for
} a new trial

Now comes the defendant
by J. M. W. Liveray, his Attorney, and move
the Court to set aside the verdict of the
jury and to grant him a new trial in
this cause and for the following reasons,
to wit;

l. 32 1. Because the Court erred in giving the
instruction asked for by the District
Attorney and each and every one of them.

2. Because the Court erred in giving instruction No 4 asked for by the District Attorney.

3. Because the Court erred in not giving instruction asked for by the defendant.

4. Because the Court erred in not giving instructions Nos. 7, 8 & 9 asked for by the defendant.

5. Because the verdict is contrary to the evidence

6. Because the verdict is contrary to the law.

7. Because the evidence showed that the defendant at the time of the alleged commission of said offense was not capable of forming an intention, did not know the distinction between good or evil and did not know right from wrong.

8. Because said verdict as returned by the jury is informal, insufficient and void.

9. Because the defendant did not have a public trial

10. Because the defendant was not allowed a public trial.

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

12. Because the defendant was and is an idiot or of unsound mind.

J. M. W. Livesay
Atty for Deft.

And thereupon comes said defendant and files certain affidavits in support of said motion which affidavits are in words and pages figures as follows: to wit —

State of Colorado }
Gilpin County }^{vs.} In District Court.

¶ 34. The People etc.,
vs
Antonio Benedict

John Dimple, of lawful age, being duly sworn on oath according to law, deposes and says: That he was one of the jurors on the trial of the above entitled action; that from the evidence adduced on the trial of said cause and from the appearance of the defendant on the witness stand deponent believed and believes that the defendant was, at the time of the alleged commission of said crime of sodomy an idiot or of such a low order of intelligence that he was incapable of forming any intention, of knowing the distinction between good and evil or right from wrong.

¶ 35 And further the deponent saith not.

John Dimple

Subscribed & sworn to before me
this 30th day of June A. D. 1894

H. A. Hicks

County Judge



And said motion and affidavits have each been filed in the District Court June 30th 1894.

Richard Harvey

Clerk

~~And thereupon said Defendant files
the following Affidavits in support of
said Motion which said affidavits are
in words & figures as follows, to wit:—~~

"State of Colorado
County of Teller" vs "The District Court

The People, etc

vs
Antonio Benedict

Peter M. Forlane, Juror

7.36. — being duly sworn on oath accord-
ing to law depose, and says: That he was one
of the jurors on the trial of the above entitled
Case; that the jurors were of the opinion that the
accused was weak or simple minded and not
capable of realizing the full nature of the crime
of which he was convicted and that a habeas
corpus was presented to the Court
with the verdict but that the jurors did not
know the propriety of such a course and the
same was not held and determined; that
7.37 that from the evidence adduced on the trial
of said Case and from the appearance of the
defendant on the witness stand he believes that
the defendant is an idiot, or verging on idiosy,
and seriously doubts that the defendant at the
time of the commission of said offense knew
what he was doing, or was capable of distinguish-
ing, or discriminating between right & wrong.
And further depose and oath not.

Subscribed & sworn to before me
Peter M. Forlane
Esq. the 30th day of June A.D. 1894
H. A. Hicks County Judge, Teller County, Colorado.

State of Colorado }
County of Gilpin } ss

In the District Court.

The People of the State of Colorado }
vs

Antonio Benedict

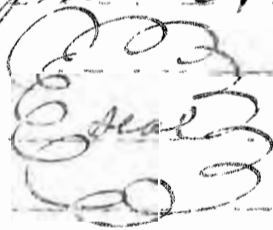
Horatio C. Hazard,

of lawful age, being duly sworn, on oath according to law, deposes and swears: that he was one of the jurors on the trial of the above entitled action; that from the evidence introduced on the trial of said case and from the appearance & demeanor of the defendant in the witness stand, he believes that the defendant is and was at the time of the commission of the alleged offense of sodomy an idiot or verging on idiocy, and that the defendant at the time of the alleged commission of said crime of sodomy, did not know what he was doing, and did not know the distinction between good & evil and was not accountable for what he did.

And further deponent swears not —

Horatio C. Hazard

Subscribed & sworn to before me this 29th day of June A.D. 1894.



J. D. McPdegraff
County Clerk