

Ellyton Feby 15th 1859

Dear Sir

At the last term of the Circuit Court of Blount County, Geo. Russell was tried before me on an indict. for the murder of Hervey. The jury returned a verdict of guilty of murder in the first degree and affixed the death penalty.

The case is now pending in the Sup. Court, & if affirmed, application will be made for a commutation of the punishment. The counsel for the prisoner, has written to me, that he feels little hope of a reversal, and requests me ^{in order} to avoid all contingencies, to write to you now in regard to the case. I should have addressed you on the subject any way, but in the absence of this request of counsel, I should have awaited the judgment of the Supreme Court.

At the outset, I deem it proper to state the circumstances connected with the homicide as testified to at the trial.

In the month of 1856, the prisoner, the deceased, & several others were assembled at a grocery in Blountsville - the prisoner proposed a wrestle to a person present - The proposition was accepted, but owing to some disagreement the parties did not wrestle. The conversation on the subject continued however, and in the course of it, the prisoner remarked in a manner

somewhat excited "that he could throw down any person in the crowd" The die? was sitting on the counter at the time and replied "Why George I can tie you" (The witnesses stated that this was said in a mild & jocular manner; At this reply the prisoner stepped off a few feet to where his coat was lying - took from the pocket a tolerably large pocket knife - opened it, and returning near to where the die? was sitting, said "You had better try it or do it" The die? then got off the counter & went, as the witnesses thought towards the door, but in doing so, came somewhat nearer to the prisoner. The prisoner thereupon stabbed die? in the neck & killed him instantly. Just as the die? fell some one said "He is dead" and about the same time another said "George how can you murder a man so"

The prisoner said "Let him die damn him it is an old grudge any how"

The proof showed that the prisoner and the die? had been for some time on intimate terms - the prisoner had until a short time before lived at the house of die?, and on the day of the killing the die? had inquired of prisoner, "when he expected to return to his house" and the prisoner replied "Soon or before long".

The proof showed that prisoner had been parentless from an early age - that he had

been badly raised - and that at the time of the killing he was only between 16 & 17 years old and excited with liquor (the witnesses stated they did not consider him drunk);

The above is substantially all the evidence, as well as I can now remember.

It must be conceded that this evidence makes a bad case for the prisoner, & that the jury were well authorized to find him guilty of murder in the first degree.

But the important question now to be determined is, do the facts & circumstances of this case, make it necessary for the public good that the unfortunate prisoner should suffer death? Would not imprisonment for life in the Penitentiary be a just and adequate punishment?

Considering the age of the prisoner - his want of proper moral training - the liquor excited state of his mind at the time of the killing, I confess that I little expected the jury to inflict the extreme penalty of the law. I thought then, as I think now, that the public good will be fully subserved by the imprisonment of the prisoner in the Penitentiary for life. This punishment he well deserves, & this I think he ought to receive.

Entertaining these views, I readily & willingly recommend a commutation of the punishment.

It may be that I take a wrong view of the case, but I feel it to be both my official and personal duty to make known to you my views

& to accompany them with the recommendation already expressed. How far I may be supported by others I can not tell. Public opinion in Blount, as I know, very decidedly against the prisoner. Young as he is, he had established a very bad character. Reports highly prejudicial to his reputation, were quite rife in the County of Blount at the time of the trial. His bad character & these reports, no doubt, weighed heavily against him on the trial. Indeed, I think, I might safely say, that to these, at least as much, if not more, than to the merits of the case, is to be attributed that part of the verdict, which affixed the penalty of death. If he had borne a good character, I can not believe, that the jury would have inflicted so terrible a penalty.

With this statement of the facts, and with the above expression of my views, I leave the fate of George Russell in your hands, should the judge against him be affirmed, by the Supreme Court.

Very Respectfully
Wm. M. Mudd

His Excellency
Gov. A B Moore

Montgomery



George Russell
Blount Co
Montgomery