

The State } In Circuit Court of
vs } Barbour County, N.C. 1858
Jacob Palmer } Personally appeared
before me, George W. Coleman clerk
of the Circuit Court of Barbour Co.
Jacob Palmer the defendant in
the above stated case who makes
oath, that in the execution of
his trial in the above stated case,
that he affiant through
forgetfulness, failed to inform
his counsel of the proof he could
make by Wm H Binson a
Material witness for defendant
in said case, although he
had caused said witness to
be summoned, and he was
in attendance upon the Court
during the trial. Affiant
submits the affidavit of said
Binson, and states that he
can prove the facts therein
~~stated~~ ^{set forth} if he can have another
trial. Affiant further swears
that he expects to be able to
prove by one Lochlan McLean
a brother of James McLean the
Principal witness against affiant,
that said James McLean had
informed said Lochlan
McLean sometime after his
pocket book and money were
charged to have been stolen
that he said James McLean
was drunk on the night that his

Verdict

Verdict

pocket book and money were
stolen and that he did not
know who had stolen said
pocket-book and money. affiant
never knew that he could make
this proof by said Lochlan
McLean until after trial
and he submits the affidavit
of Andrew J. Mumble from ^{Whom} his
council has learned the above ~~the~~
facts since the trial of the case to
show that he can make said
proof. affiant further avers
that he expects to prove by one
Wanda who resides in
Dale county that said James
McLean after the alleged
larceny of his pocket-book and
money charged him said
Wanda with the stealing of it.
that he can also prove by James
Hamilton who resides in this
county near Eufaula that said
James McLean after said alleged
larceny of his pocketbook and
money charged him the said
Hamilton with the larceny of
said pocket-book. affiant also
states that he can prove by
Ralls ^{who resides in Dale Co} that said James McLean
charged him said Ralls with the
larceny of said pocket-book and
money and that said witness
and said McLean have three
rights about said charge.

Wanda Hamilton

Ralls

affiant further states that when
he was first arrested on this charge
of Larceny at the instance of
said James McLean and carried
before ^{B. H.} Wiser a justice of the peace for
this County that said James McLean
refused to testify and give
evidence in said case against
this affiant and that affiant
was discharged - which fact
affiant can prove by said
justice of the peace Wiser and
affiant says that he was surprised
by the evidence given in on the
trial of this case by said McLean
and from his refusal to swear
before Wiser as above stated affiant
was induced to believe that said
McLean would not swear against
him upon the trial at this term
of the Court and hence he did
not take steps to procure the
testimony of said Ward, Hamilton
Kallo and said Wiser that
he expects to be able to procure
the attendance of each and all
of said witnesses if he can obtain
another trial.

Affiant further swears that he expects
to prove by John Barbance Hampton Ryan
Hugh St. Leonichal W. B. Lewis, Harold F. Brown
James Brown

John Johnson Jefferson Parmer Arthur B
Lewis, John Lewis James B Smith & others
that they know the character of James McLean
for truth & veracity in the neighborhood in which
he lives & from such character they would not
believe him on his oath in a court of justice.

McLean

Affiant further swears that he expects
to prove by James S. Byrnum who lives in
this county that the said James McLean told him
that he (McLean) did not believe that the defendant
stole his pocket book as charged in this case but
that he (McLean) had sworn it once (referring
an affiant supposes to ^{the} affidavit upon which
the warrant above referred to was issued) and
he would have to do so again. And that
the said McLean further ^{told} him (said affiant) that
he would never have so sworn if he
had not been urged by others. Affiant
never learned that he could make
the above proof by James Byrnum
until after the trial in this case.
Affiant further swears that he is
not guilty of the larceny charge
against him and if a new trial
is allowed him he hopes to be able
to make it appear -

I now to due subscribe
before me this the 8th May
A D 1858 -

George M. Coleman Clerk

Jacob Tanner Jr