

Nancy Mahala Depew: Acquitted of Murder

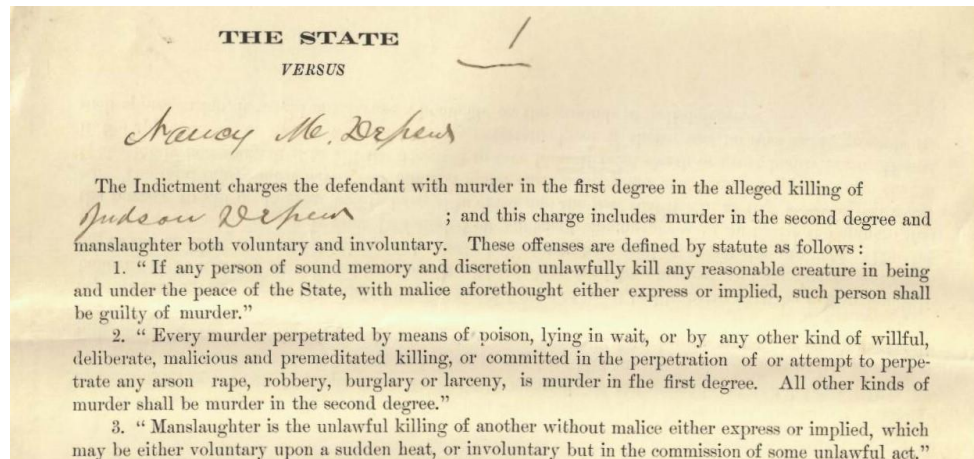


Photo courtesy of Betty Jane Hylton

Somewhere in the seventh Civil District, near the Fall Branch area, friends and neighbors were used to hearing Judson and Nancy Depew argue back and forth. John Burke, who the couple lived with for a time, said “I have heard him threaten to kill her – I have heard him threaten her several times and I saw him hit her once and she was on the floor.” “She was as good in a quarrel as he was,” Burke also mentioned. Hale Kincheloe heard the Depews’ disagreements, explaining that he “frequently heard Judson Depew threaten to mash his wife’s head – I heard him threaten her last winter.” Pleasant Parker described an incident she witnessed between the two.

I saw him in a difficulty with a cow, once, his wife in a good humor – She says: Judson, the cow is mad and you are mad, come in the house and let her alone, He says to her with a vile oath; if you don’t go in the house and shut her mouth he would burst her brains out with a rock and threw a rock at her hitting the door facing.

Early Friday Morning on September 1, 1882, the Depews were once again arguing back and forth. Except this time, Nancy Mahala Depew decided she had had enough, leading her to be charged with the murder of Judson Depew.



Washington County, Tenn. Circuit Court Records, RG 3, Series 2. Case Files. State vs. James Burke and Nancy Mahala Depew. 1882. Washington County, TN, Dept. of Records Management and Archives, Jonesborough, TN

William Burke states:

*Judson Depew and his wife had a dispute, talking very loud and he said to her: "You d****d infernal devil, shut your mouth or I will kill you." Her reply was: You can kill me but you cant eat me – He next said: shut your mouth, you d****d infernal b***h, or I will pick up one of these boards and burst your brains out. I will conquer you or I will kill you. Her reply was: You will never conquer me.*

Multiple witness then reported hearing boards rumbling, screams, Nancy saying to him "to go away, and let her alone," something hitting the ground, and then the sound of a shovel falling and ringing against the hearth. William Burke described what he saw next:

Very quick after I heard the lick I heard something fall, after this I went to Depews room door as quick as I could get there – I called to him and he made me no answer I called again and he began to get up ... and began to walk toward the fire place. I

called to his wife to catch him as he might fall in fire. He got from the fire place to the door and got down on the floor and said to his wife Mahala I am sick and commenced puking his wife said to him who is to blame for this and he said Mahala I am to blame.

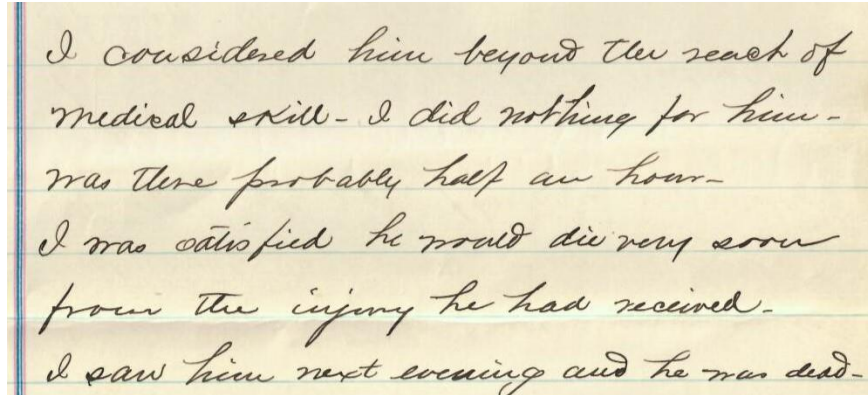
She then asked him if she had hurt him. His reply to her was: Yes, you have hurt me and that badly. You have made a knot on my head as big as my fist. She said that what she had done she had done in self-defense. She was sorry, but she was not ashamed of it.

She said she gave the licks on the head – she said she hit him with the shovel.

Multiple witnesses reported that for a time Judson was alert and awake, even praying for a few hours. However, As the morning progressed Judson fell unconscious. Eventually, someone called for a doctor. Dr. Geo. R. Duncan described his visit:

I was called to see Judson Depew on Friday evening about seven o'clock ... I found him in a comatose condition – symptoms indicating concussion of the brain – I examined him and found a wound on the right side of the head – There seemed to be two strikes, one farther in advance, The wound seemed to be diagonal – indicating that the parties striking were standing a little to the right of the one struck.

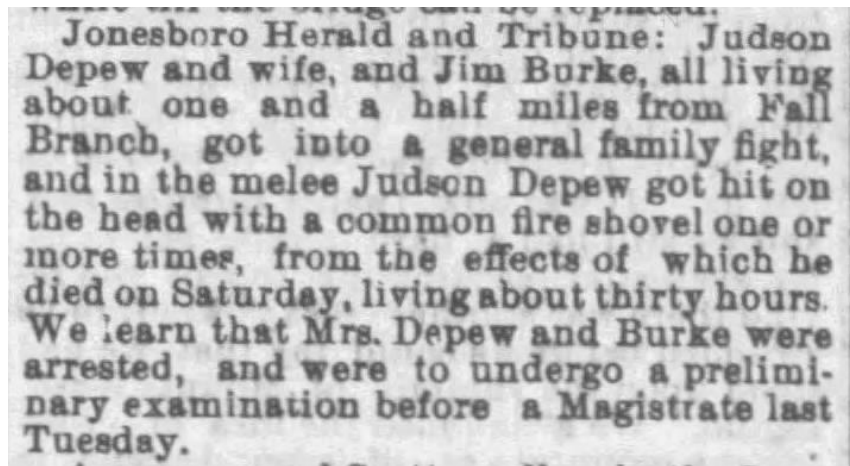
I considered him beyond the reach of medical skill – I did nothing for him ... I was satisfied he would die very soon from the injury he had received. I saw him the next evening and he was dead.



I considered him beyond the reach of medical skill - I did nothing for him - was there probably half an hour - I was satisfied he would die very soon from the injury he had received - I saw him next evening and he was dead -

Washington County, Tenn. Circuit Court Records, RG 3, Series 2. Case Files. State vs. James Burke and Nancy Mahala Depew. 1882. Washington County, TN, Dept. of Records Management and Archives, Jonesborough, TN

Judson died on September 2, 1882. A few days later on September 5, 1882, Nancy Mahala Depew was officially charged with the murder of Judson Depew in the Washington County, Tennessee Circuit Court in the case State vs. Nancy Mahala Depew and James Burke.



Jonesboro Herald and Tribune: Judson Depew and wife, and Jim Burke, all living about one and a half miles from Fall Branch, got into a general family fight, and in the melee Judson Depew got hit on the head with a common fire shovel one or more times, from the effects of which he died on Saturday, living about thirty hours. We learn that Mrs. Depew and Burke were arrested, and were to undergo a preliminary examination before a Magistrate last Tuesday.

The Tennessean Nashville, Tennessee. Mon, Sep 18, 1882 Page 3, Newspapers.com

Even though Burke was indicted alongside Nancy in the murder, witnesses only mentioned him in passing. James Burke's involvement was a bit of a mystery that still remains unsolved. In August 1883, the jury found the defendants not guilty and acquitted them of the crime. The State of Tennessee was then ordered to pay her court costs.

Forworn Thursday, August 16th 1883

<p>State vs Nancy Depew Indicted with Jas Burke</p>	<p><i>Murder</i></p>	<p>Came again the Attorney General to prosecute on behalf of the State and the defendant in person and by Attorney appeared at the bar of the court and also came the same jury who were on yesterday noon in this case A. D. Moore B. C. Benson Bird & Rayless Joshy Britt Aaron Carr, Joseph Taylor Musshaw, George McPherson, E. W. Morris J. H. Rensley, J. C. Hunter and John Hellingham who upon their oath do say that the defendant is not guilty as charged. It is therefore considered by the court that the defendant go home without day and that the State of Tennessee pay her own costs in this behalf expended and that the clerk make out and certify the same to the Comptroller of the Treasury for payment.</p>
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Washington County, Tennessee. Circuit Court Minute Docket D, Criminal Cases. Washington County, Tenn. Archives

147		JUDGMENTS, CRIMINAL CAUSES		August TERM, 1883
No.	PARTIES.	JUDGMENT AND COST.	Dollars.	
	State vs Nancy M. Depew Indicted with James Burke	Murder - Indicted with Jas Burke Requisites & Costs adjudged vs State Bill of Costs		
Atty Genl John Fair clerk W. S. Mathes		<p>1/2 Indictment 12. 1/2 Order on Dam 15. 1/2 Enter- ing of Record 500 Wms 25. 1/2 Capias 38. 16 Subs for State 1. 1/2 3 docketings 10 - 7 docketings 70. 33 Probts State into 1. 25. 2 Continuances 50. 1 Order to remove to Jail 25. 1 Recognizance & Surety 50. 1 Jury 50. 1 Hospital 25. Judgt vs State for costs 25. Bill of Cost 50. Certified Copy of Dam to Comptroller for payment 50</p>	<p>13 4 20 33</p>	

Washington County, Tennessee. Circuit Court Execution Docket D, Criminal. Washington County, Tenn. Archives

State of Tennessee Circuit Court
Washington County E December Term 1882

The Grand Jurors for the State and County aforesaid upon their oath present and say that James Burk Nancy Mahala Depew on the 1st day of September 1882 in the County aforesaid wilfully, maliciously deliberately, premeditatedly, feloniously and of his malice aforethought did make an ^{assault} upon Judean Depew and the said James Burk and Nancy Mahala Depew on the day and year aforesaid did then and there wilfully, maliciously, deliberately, premeditatedly, feloniously and of ~~his~~ ^{their} malice aforethought Kill and murder the said Judean Depew in the first degree by inflicting wounds upon the head and body of the ^{said} James Burk by striking him the said ~~the said~~ James Burk with shovels and other blunt instruments. Against the peace and dignity of the State.

John Hain
Atty. Genl.