

as deponent is informed and believes to be true, and that said Auditor refuses to pay for deponent's services, also the services of Jas. R. Wilkins, Clerk of this Court for prosecuting Criminal in this Judicial District. All of which is true as he believes. D. P. Whedon, Asst. U. S. Atty. for 2^d Judicial District, Utah. Endorsed: "Filed April 12, 1875. James R. Wilkins, Clerk."

In the District Court of the Second Judicial District of Utah Territory, Beaver County.

The People of the U. S. }
in the Territory of Utah } Indictment for Murder.

John Q. Lee, Deft. }
The Territory of Utah, County }
of Beaver } ss.

John Q. Lee, the defendant in the above entitled cause comes into Court in his own proper person and resists the motion for a continuance of this cause as made by the U. S. Dist. Atty., and for cause thereof on his oath, being first duly sworn, states and avers:

That the Indictment against defendant upon which he is now held to answer, was found by the grand jury of said District on the 24th day of September, 1874, and that defendant was arrested on a warrant issued on said indictment on the 11th day of November, 1874, and has ever since been held in confinement under said arrest awaiting his trial, most of which time defendant has been in irons.

That affiant soon after his arrest employed for his counsel, Wells Spicer, Esq., one of the attorneys of this Court, and at once prepared for his trial, and that at the term of this Court while in session in December, 1874, to wit, on the _____ day of December, 1874, this affiant instructed his said Attorney of Records, Wells Spicer, Esq., to urge his case on for trial at the earliest day practicable with the business of Court, and that as affiant is informed, and believes, and as the Records of this Court show, on said attorney

in said day of December, 1874, in open Court gave notice that affiant was ready for trial, and desired an arraignment and speedy trial, which has ever since that time been denied him.

That ever since that time the affiant has been urging his trial and is now prepared for and demands that the same should be awarded to him as speedily as practicable with the business of Court.

Affiant further states that by reason of his long confinement his health has been impaired, and has suffered severely from ill health and disease brought on by said confinement and especially from rheumatism caused by the irons on his limbs, and he verily believes that if this confinement continues affiant's health will be so far broken and destroyed as to endanger his life.

That affiant is in reduced circumstances financially, by reason of his property, his stock, houses, and cattle becoming scattered and lost, and has no sufficient means to provide for the expenses of this trial or provide means for the support of his family depending upon him.

And affiant further deposes and says that he is wrongfully and unjustly charged by said indictment against him, and that defendant is entirely innocent of all and every thing in said indictment charged against him, which he is ready to establish should an opportunity be given him in Court so to do.

Affiant further states that he has caused subpoenas to be issued for his witnesses which have been served by the proper officer of this Court, and has at great trouble and expenses prepared for his trial at this time, and that considering the health, circumstances, and condition of affiant, and the circumstances of his case, he will suffer great losses and expenses, and be put to great trouble, and disadvantages if his case be continued, and that in view of all these facts, and of other facts and cir-

circumstances known only to the defendant, this affiant avers and deposes that great injustice, wrong, and injury will be done him if this case be continued.

Wherefore affiant insists upon his trial at this term of Court, and for further and additional reasons, affiant states and avers: That the indictment against him was found by the grand jury upon the testimony of ten witnesses whose names are endorsed on the back of said indictment, and that to meet the charges in said indictment with proper testimony affiant will require the attendance of a correspondingly large number of witnesses, the attendance and testimony of all said witnesses can be procured at this term of Court, but that if said cause be postponed, affiant verily believes that many of his material witnesses upon whose testimony defendant avers his defense, will be beyond the reach of subpoena, or by reason of death or other disabilities, be unable to attend upon this Court and testify for defendant.

Wherefore affiant avers upon his oath that for all the above reasons and many others which would be inconsistent with his line of defense here to state, that a continuance of this case to a future term would work a great wrong, injustice and hardship to defendant.

Affiant further states that he is now sixty-three years of age, and the offence or crime with which he is charged is said in the indictment against him as having been committed over seventeen years ago, the remoteness of which period makes it difficult to obtain witnesses to prove his innocence which he can now do, but believes if the case be continued his witnesses will be dispersed so that they cannot again be had, and that many of them being very old and infirm, may die or become unable to attend Court, John D. Lee.

Subscribed and sworn to before me this 12th day of April, A. D. 1875. James R. Wilkins, Clerk.