

IN THE DISTRICT COURT FOR SALT LAKE COUNTY, UTAH.
STATE OF UTAH :
vs. : No. 6301
GEORGE GARDNER, :
Defendant. :

Trial on May 8, 9th and 10th 1922.

H. W. CHRISTOPHERSON, surveyor of Salt Lake County, testified in substance as to the making of the maps Exhibits A and B and their correctness, showing the premises in question.

DR. A. C. CALLISTER, called by the State, testified in substance: I am a physician and surgeon and county physician of Salt Lake County. I examined the body of Gordon Stuart on April 15th 1922, the day he was killed and found three gunshot wounds on it: one on the extensor surface of the left arm; another a perforating wound on the left chest at the 7th and 8th ribs; and at the anterior axillary line was a big gunshot wound of the right forearm. The wound in the chest penetrated the left chest cavity and tore an opening thru the vault of the diaphragm thru which I could put my fist; the tip of the lower lobe of the left lung was completely shot away; pieces of the left lobe of the liver were blown thru the diaphragm into the chest, and there were numerous shot in the remainder of the left liver and within the cavity and in the wall of the cardiac end of the stomach and in the pericardium and the heart muscle of the ventricle; the tip of the left ventricle of the heart was torn open. In the chest cavity I found pieces of clothing, shot, shotgun wadding, and it was full of fluid and clotted blood. The cause of death was hemorrhage and shock due to gunshot wounds.

ON CROSS-EXAMINATION: Gordon Stuart was about 5 feet 11 inches tall; I think the gun that fired the shot was elevated a little above the point of entry of the shot in the body of Stuart; I don't believe all the wounds could have been made by one shot or discharge of the gun; think Stuart could not live more than two or three minutes at the most after receiving the wounds.

GEORGE A. JENKINS testified in substance: I have been an undertaker at Murray the last eight years and took charge of the body of Gordon Stuart on April 15th 1922 at Welby, Salt Lake County; I removed his clothes at my morgue in Murray, which are the same as the clothes introduced here in evidence, Exhibit C.

On cross-examination: I knew Gordon Stuart and knew it was his body; observed the clothes carefully, but did not observe any powder marks on it.

FRANK M. MATHEWS testified in substance: I have been a deputy sheriff of Salt Lake County about seven years. April 15th 1922 T.A. Herriner, Don Gardner, Gordon Stuart and I went to the Gardner ranch at Welby to serve a writ of claim and delivery on the defendant; it is called the Meek farm; I read the affidavit of claim and delivery to the defendant, telling him what stock we were there for, which was two cows, a calf, a horse, two pigs and their litter, two turkeys, two Stillson wrenches and a harrow. Gardner replied: "By God, you will not take anything off of this place." I said "We are officers and we have the orders from the court, and we can't do anything else," and the defendant replied "Come on in the house; let's settle it;" Stuart said "Come on" and we went in the house. At that time we were standing at the back porch of the house. The defendant went into the dining-room while Stuart stood in the doorway between dining-room and kitchen and I stood by his side; not a word was said by anyone while we were in the house; sudden Gardner turned and had a gun in his hand, and was about the length of the gun from Stuart, and he shot Stuart twice with the gun; I didn't see him get the gun; then Stuart and I ran out the door and about sixty feet from the house Stuart fell at my feet, and I looked up and saw Gardner there with the gun levelled on me, saying "Back off the place, you God damned son of a bitch or I will kill you too;" I said "Don't shoot; I will back off," and I backed off to the gate west of the house. The defendant then went to the barn, where I saw Deputy Don Gardner holding his hands in the air, and took the gun with him; I hollered to Irvine to get off the place.

On cross-examination: When we left to go to the Gardner or Meek farm to serve the writ Joseph W. Irvine and three other men I didn't know when with us; Stuart and Don Gardner joined us at Midvale, making a total party of eight men. When we arrived at the Gardner farm the first person I saw was Mrs Gardner standing on the back porch talking to Stuart and Don Gardner, and I went up to them and