A Right to a Fair Trial: The Brownfield Decision

Created by: Tim Hicks & Marc Turner (June 2013)

Subject/Courses: South Carolina History, American Government, Civics

Grade Levels: 7th-8th Grade

Time/Duration: Two Days (120 minutes)

Overview/Description: The trial of an African American John Brownfield in 1900 was the result of the fatal shooting of a white man named JC Scurry. Scurry was serving a court order requiring Brownfield to pay the poll tax. When he refused, Scurry pulled a gun which Brownfield grabbed and shot Scurry multiple times. The defendant, John Brownfield was tried and found guilty of the crime. His attorney, JL Mitchell, sought to overturn his conviction claiming the court trial's violation of the 6th and 14th Amendments, which require an impartial jury and equal treatment under the law. Brownfield, an African-American, was tried and convicted by an all white jury. This lesson requires students to look at the decision of the South Carolina Supreme Court to evaluate the claims of Mitchell on behalf of his client.

Standards:

8-3.3: Explain the basic principles of government as established in the US Constitution.

8-5.4: Summarize the policies and actions of South Carolina's political leadership in implementing discriminatory laws that established a system of racial segregation, intimidation, and violence.

Objectives:

Students will be able to:

1. Explain the 6h and 14th Amendments and their requirements in criminal prosecutions
2. Analyze and interpret primary sources.
3. Develop an effective argument affirming or rejecting the decision of the court.

Materials:

State v. Brownfield, internet access

Instruction:

Day 1

- Students will be divided into small groups to investigate the meaning of one of the following issues: a jury of your peers (6th Amendment), equal protection of the law (14th Amendment), and self-defense. (30 minutes)
- Groups will present their findings with time for questions from the class. (30 minutes)

Day 2

- Student groups from Day 1 will examine excerpts from the State v. Brownfield decision (1901) and identify and analyze the legal issues in the case. (30 minutes)
- Student groups, from the perspective of the US Supreme Court, will briefly argue (2 minutes per group) whether the appellant's case (Brownfield) has merit based on the three issues: self-defense, jury of your peers, and equal protection of the laws.

Assessment:

Students will be informally evaluated based on their explanation of the legal concepts, their arguments about the case and their participation in discussion.

Opinion

GARY, A. J.

The defendant was indicted, tried, and convicted of murder at the November, 1900, term of the court of general sessions for Georgetown County, in said state, and sentenced to be hanged on the 28th day of December, 1900. Upon his arraignment, the defendant's attorneys made a motion to quash the indictment on the following grounds: "[Caption.] And now comes the defendant, John Brownfield, in his own proper person, and moves the court to set aside and quash the indictment herein against him, because the jury commissioners appointed to select the grand jury which found and presented said indictment selected no person or persons of color, or of African descent, known as 'negroes,' to serve on said grand jury, but, on the contrary, did exclude from the list of persons to serve as such grand jurors all colored persons, or persons of African descent, known as 'negroes,' because of their race and color, and that said grand jury was composed exclusively of persons of the white race, while all persons of the colored race, or persons of African descent, known as 'negroes,' although consisting of and constituting about four-fifths of the population and of the registered voters in said city and county of George *3 town, and although otherwise qualified to serve as such grand jurors, were excluded therefrom, on account of their race and color, and have been so excluded from serving on any jury in said court of general sessions for Georgetown county for a considerable time back, which is a discrimination against the defendant, since he is a person of color, and of African descent, known as a 'negro'; and that such discrimination is a denial to him or the equal protection of the laws, and of his civil rights guarantied by the constitution and laws of the United States; all of which the defendant is ready to verify. John Brownfield. [L. S.] Sworn to before me this 15th day of Nov., A. D. 1900. J. B. Edwards, Notary Public, S. C." This motion was overruled, and thereupon the defendant's attorneys excepted.

The defendant's attorneys then challenged the array of grand and petit jurors upon the same grounds as were submitted on the motion to quash the indictment. This motion was also overruled, and to this ruling the defendant's attorneys likewise excepted. The defendant thereupon pleaded not guilty.

The testimony is not set out in the agreed "case" upon which the appeal was heard by this court, but under the word "testimony" are the words, "(Insert testimony)." This, however, did not make the testimony a part of the agreed case. In re Estate of Perry, 42 S. C. 183, 20 S. E. 84; Moore v. Perry, 42 S. C. 369, 20 S. E. 200.

In the agreed case are also the words: "The judge's charge was as follows: (Insert judge's charge.)" The charge was not inserted, and, under the authorities just cited, was not a part of the agreed case.

The defendant appealed upon five exceptions, the fifth of which was withdrawn. The first exception is as follows: (1) "Because his honor, Judge Gary, the presiding judge, erred in refusing defendant's motion to quash the indictment, on the ground that there was no member of the race to which the defendant belongs on the grand jury that found the said bill of indictment." The only question raised by this exception is whether his honor, the presiding judge, erred in refusing to quash the indictment simply because no member of the race to which the defendant

belongs was on the grand jury that found the bill of indictment. In the first place, there is no provision of the constitution of South Carolina, nor any of its statutes or laws, to the effect that a person on trial can move to quash an indictment on the ground that there was no member of the race to which he belongs on the grand jury that found the bill of indictment against him. The constitution, statutes, and laws of South Carolina apply alike to the white and colored races, as to the qualifications of jurors, without any discrimination whatever on account of race, color, or previous condition of servitude. The provisions of the constitution relative to the qualifications of jurors were construed in Mew v. Railway Co., 55 S. C. 90, 32 S. E. 828, affirmed in State v. Rafe, 56 S. C. 379, 34 S. E. 660, and other cases thereafter decided. In the second place, the fact that there was no member of the race to which the defendant belongs on the grand jury that found the bill of indictment against him was not violative of the constitution, statutes, or laws of the United States, unless there was a discrimination against his race by the constitution, statutes, or laws of South Carolina, or in the administration thereof, on account of race, color, or previous condition of servitude. In the case of Gibson v. Mississippi, 162 U. S. 565, 16 Sup. Ct. 904, 40 L. Ed. 1075, Mr. Justice Harlan, voicing the opinion of the court, after quoting the provision of the statute that "no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified from service, as grand or petit juror, in any court of the United States, or of any state, on account of race, color, or previous conditions of servitude," says: "While a state, consistently with the purposes for which the amendment was adopted, may confine the selection of jurors to males, to freeholders, to citizens, to persons within certain ages, or to persons having educational qualifications, and while a mixed jury is not, within the meaning of the constitution, always or absolutely necessary to the enjoyment of equal protection of the laws, and therefore an accused, being of the colored race, cannot claim as matter of right that his race shall be represented on the jury, yet a denial to citizens of the African race, because of their color, of the right or privilege, accorded to white citizens, of participating, as jurors, in the administration of justice, would be a discrimination against the former, inconsistent with the amendment, and within the power of congress, by appropriate legislation, to prevent." This exception is overruled. The second exception is as follows: (2) "Because his honor, Judge Gary, the presiding judge, erred in refusing the challenge to the array of grand and petit jurors on same ground." This exception is disposed of by what was said in considering the first exception. While the question was not properly made by the exceptions, this court will, nevertheless, in favorem vitæ, consider whether his honor, the presiding judge, erred in overruling the motion to quash the indictment, and in refusing to sustain the challenge to the array of grand and petit jurors on the ground that there was no testimony to sustain the facts therein alleged. In order to determine this question, it will be necessary to state the facts that appear in the agreed case. It seems that a difference arose between the respective attorneys of record as to the facts of the case, whereupon they signed the following agreement, to wit: "We hereby agree that his honor, Judge Gary, ***4** make a statement as to his rulings upon the motion to quash the indictment, and also as to the motion to challenge the arrays of grand and petit jurors in the case, and also as to requests to charge, and such statement shall be the agreed statement, for the purposes of this appeal. J. L. Mitchell and W. J. Whipper, Attorneys for Defendant (Appellant). John S. Wilson, Solicitor for State (Respondent)." Statement of Judge Gary: "On motion to quash the venire, I overruled the same on two grounds: (1) Because the statement of facts set out in the grounds for quashing the same did not appear from the records or otherwise; that, not being personally acquainted with the jurors selected, I could not assume the facts to be as alleged. (2) Because the constitution of this state prescribed the qualifications of a juror in section 22 of article 5, in the following words:

‘Each juror must be a qualified elector under the provisions of this constitution, between the ages of twenty-one and sixty-five years, and of good moral character.’ I then suggested that counsel could examine each juror on his voir dire, and ascertain if he was qualified, and, in the absence of any showing to the contrary, I was bound to assume that the jury commissioners had done their duty in the premises. As to the sixteenth request, I have no recollection, as I marked the requests presented, and turned them over to the stenographer. May 4, 1901. Earnest Gary, Presiding Judge.” The last line in the agreed case is: “Above signed with relation to case as settled by judge.” It is true the words, “the defendant offered to introduce testimony to support these grounds,” appear in the record just after the statement that, “the motion being overruled by the court, the defendant's counsel excepted”; but they evidently refer to the offer in the motion to quash the indictment, and not thereafter, as the said words are inconsistent with the statement made by his honor, the presiding judge, in pursuance of the agreement of counsel hereinbefore mentioned. Furthermore, it was not contended by the appellant's attorney, upon the hearing of the appeal herein, that there was any offer to introduce testimony to support the allegations in the motion to quash, other than the offer therein made. We will therefore consider this question in the light of the fact just mentioned, that the appellant did not offer testimony to sustain the allegations in the motion to quash, further than the mere offer alleged in said motion. In Carter v. Texas, 177 U. S. 442, 20 Sup. Ct. 687, 44 L. Ed. 839, the court says: “When the defendant has had no opportunity to challenge the grand jury which found the indictment against him, the objection to the constitution of the grand jury upon this ground may be taken either by plea in abatement or by motion to quash the indictment before pleading in bar, U. S. v. Gale, 109 U. S. 65, 67, 3 Sup. Ct. 1, 27 L. Ed. 857. The motion to quash on such ground being based on allegations of fact not appearing in the record, those allegations, if controverted by the attorney for the state must be supported by evidence on the part of the defendant,”-citing Smith v. Mississippi, 162 U. S. 592, 601, 16 Sup. Ct. 900, 40 L. Ed. 1082; Williams v. Mississippi, 170 U. S. 213, 18 Sup. Ct. 583, 42 L. Ed. 1012. In Smith v. Mississippi the court uses this language: “No evidence was offered in support of the motion by the accused to quash the indictment, unless the facts set out in the written motion to quash, verified to the best of his knowledge and belief, can be regarded as evidence in support of the motion. We are of opinion that it could not properly be so regarded. The case differs from Neal v. Delaware, 103 U. S. 370, 394, 396, 26 L. Ed. 567.” The court then proceeds to show wherein the difference consisted. Proceeding, the court says: “The facts stated in the written motion to quash, although that motion was verified by the affidavit of the accused, could not be used as evidence to establish those facts, except with the consent of the state prosecutor or by order of the trial court. No such consent was given. No such order was made. The grounds assigned for quashing the indictment should have been sustained by district evidence, introduced or offered to be introduced by the accused. He could not of right insist that the facts stated in the motion to quash should be taken as true simply because his motion was verified by his affidavit. The motion to quash was therefore unsupported by any competent evidence; consequently it cannot be held to have been erroneously denied.” These authorities are conclusive of the question under consideration.

The third exception is as follows: (3) “Because his honor, the presiding judge, erred in refusing to charge the jury, as requested by defendant's attorneys, as the eighth proposition, that ‘an arrest, even if lawful, made in such a menacing manner as to threaten death or bodily harm, is held to justify resistance, even to the killing of an officer.’ 2 Am. & Eng. Enc. Law (2d Ed.) 980.” This request was erroneous, in that it eliminated from the consideration of the jury the conduct of the defendant, and was therefore properly refused. This exception is overruled.

The fourth exception is as follows: (4) “Because his honor, the presiding judge, erred in refusing to charge the jury in the above-entitled cause, as requested by defendant's attorneys, as the ninth proposition, that ‘if the testimony shows that the deceased, J. C. Scurry, assaulted the defendant, John Brownfield, with a pistol, in such a manner as to produce the belief that he was about to take the defendant's life, or inflict upon him great bodily harm, at the time that he fired the fatal shot, it makes no difference whether deceased intended to take the defendant's life or to do him bodily *5 harm or not, the shooting was justifiable, the killing excusable, and the defendant should be acquitted.’ Whart. Hom. 215-217, 219; State v. Jackson, 32 S. C. 27, 10 S. E. 769; State v. Symmes, 40 S. C. 383, 19 S. E. 16.” This exception does not specify in what particular there was error on the part of his honor, the presiding judge; but, waiving this objection, the request was erroneous, as it failed to take into consideration the conduct of the defendant, and, furthermore, would have been a charge on the facts. It was therefore properly refused, and the exception is overruled. It is the judgment of this court that the judgment of the circuit court be affirmed, and the case remanded to that court, for the purpose of having another day assigned for the execution of the sentence of the court.

State v. Brownfield, 60 S.C. 509, 39 S.E. 2 (1901) aff'd sub nom. Brownfield v. State of S.C., 189 U.S. 426, 23 S. Ct. 513, 47 L. Ed. 882 (U.S.S.C. 1903)