

Testimony of H. B. Swinn (Justice of the Peace-Mequon)

Sworn for the State of Wisconsin

Questioning starts with direct exam of H.B. Swinn from the District Attorney of Ozaukee County

Q: How long have you know the defendant?

A: Since May last.

Q: Do you remember the day he was brought up here?

A: Yes sir.

Q: Did he make a statement?

A: Yes sir.

Q: You may state what he said.

A: It was a while after he was brought up and put into jail. I went in to see him and asked him if he had any objections to telling me how this happened, what he did. He said he had none and would tell me. He commenced: He said this man Neires stayed with him so long and had not paid him for keeping him, and that he had so much money coming from him for his support for several years. Last fall he drove him off, out of his house but that he hadn't paid him (the defendant) for keeping. Neires also was a great amount of trouble. The defendant want to get his money owed but could not find where Neires was. He heard that Neires had mortgages, but could not find out where or with whom. He look at records in Milwaukee but could not find any. He made up his mind to go there and find out where the money was. That he went to Milwaukee with the intention of buying a revolver, did go there and did buy one. He bought the revolver with the intention if this man would not tell him where the money was or show him the papers, he would shoot him. That he came home with the revolver and the next morning went to the house and asked him where the money was, asked him to show him the papers or securities, or tell him where it was loaned out. Neires told him it was none of his business. He then told Neires "if you won't tell me where you have the money I will shoot you. Neires said "it is none of your business". He then hauled up and shot Neires. The defendant stated that the first shot I noticed hit him in the shoulder. I thought it only went through his coat. I fired again and he fell. He then went off (left the residence). He said there were several people in the house but he didn't know whether they saw the shooting or not. He went off, threw the revolver away and went to the depot to come up here to deliver himself up.

Q: Did he say anything as to being punished?

A: He said he want to be punished for what he had done. He also said this man "Neires" was a great annoyance to the family, that the defendant and his wife had a great deal of trouble about this man. He, the defendant, wanting to send Neires off, his wife protesting against it, wife want the man to stay there, but he at last went, no matter, and had him taken away.

Q: Did he state the nature of the trouble they had with him?

A: Well, it seems to have been about money all the while they thought they couldn't get pay for keeping him.

Q: You are a Justice of the Peace, have been for a good many years?

A: Yes sir, I was at that time.

Q: Have you taken the testimony of a great many witnesses?

A: Yes sir.

Q: Did you notice anything peculiar in the actions of Guidinger at the time of him making his statement?

A: No, it was very clear. After I had reduced it down I read it to him. He said "that it was true" and signed it.

CROSS EXAMINATION

Q: Did he sign it?

A: Yes sir.

Q: Did he think at the time you was a Justice of the Peace?

A: I believe I told him that I was.

Q: What day was that, the day he was brought up there?

A: Either that day or the next morning. I believe the same afternoon.

Q: Did he swear to the statement?

A: No sir, I didn't ask him to.

Q: It was that day or the next morning, you can't remember which?

A: No, I can't remember which.

Q: Well, how long was you there before you asked him if he had any objections to state to you?

A: Not long. As we came in he stood up. I invited him to sit down. I told him I was the Justice of the Peace and had come in to see what he had to say; asked him whether he had any objections to telling me what took place and reduced it to writing in his presence as he gave it.

Q: He no doubt thought at the time, you suppose, that he was making a statement to this case?

A: Yes sir, I suppose so.

Q: Upon that, did you proceed to act as Justice of the Peace?

A: I don't know if the warrant was already issued. Jackson swore out the complaint before me. I issued the warrant.

Q: For his arrest and examination on the charge of murder?

A: Yes sir, I don't know whether the complaint has lodged before or after the statement was made.

Q: Who made the complaint?

A: Jackson, the district attorney.

Q: It was lodged with you, either before or after his statement?

A: Yes sir.

Q: Who if anybody requested you to go there to the jail and do as you say you did?

A: I don't know as it was particularly requested to do so. I think it was at the time of the complaint was made.

Q: Did the district attorney request you to go?

A: I was up there in the court house.

Q: You and the district attorney had been talking about it?

A: Yes sir, that is, was called up when the constable was there.

Q: He knew you was going to get a statement?

A: I think he did.

Q: Was he present?

A: No sir.

Q: Anybody else?

A: The undersheriff.

Q: James Hedding Jr?

A: James Hedding Jr.

Q: About how long was you in there at that time?

A: All of a half hour-three quarters of an hour.

Q: You left as soon as you got the statement, didn't you?

A: After I got the statement I read it to him and asked whether that was all true, and he says yes.

Q: Did you read it in German?

A: Yes sir.

Q: Was it written in German?

A: No he gave it in German, I translated it and wrote it down, read it in German and asked him whether that was true-whether I had taken it down the way he wanted it and asked whether he had any objection to signing; he said "no", I will sign it.

Q: Then you issued the warrant?

A: Issued the warrant on the complaint that was made.

Q: Did he say at this interview that he didn't want a lawyer, wanted to plead guilty?

A: Yes sir, he did, said "I want nobody to defend me".

Q: Did you tell him at the same time that you was going to have him up before you?

A: I don't think I did.

Q: You had never seen him before?

A: Never to my knowledge.

Q: Did you have no opportunity of judging about his mental condition, only what you saw that evening and what had took place?

A: Not at all, haven't hardly ever saw the man since.

Q: You don't know really whether he was sane or insane in making a statement of that kind, wanting nobody to defend him?

A: I didn't see anything strange; of course, I'm not an expert.

Q: He told you about having gone as soon as he had done it, purchasing a ticket to come up here?

A: Yes sir.

Q: Told you what became of it, why he didn't come?

A: Yes sir, told when he came to the depot to come up, to deliver himself up, the constable arrested him.

Q: That prevented him?

A: Yes sir, he said the constable paid him back the money he advanced.

END OF TESTIMONY

Note: This court record was copied from court files at the Ozaukee county clerk of courts. Due to the age and condition of the paper, it was not easy to read but was legible. I took time to retype the document into this easier to read format on November 16, 2017. Jeff Guidinger JLG

