

NO. 60317

STATE OF MICHIGAN
IN THE RECORDER'S COURT FOR THE
CITY OF DETROIT.

THE PEOPLE,

VS.

OSSIAN SWEET,
GLADYS SWEET,
JOE MACK,
HENRY W. SWEET,
MORRIS MURRAY,
OTIS SWEET,
CHARLES B. WASHINGTON,
LEONARD C. MORRIS,
WILLIAM E. DAVIS,
JOHN LATTING and
HEWITT WATSON,

RESPONDENTS.

MOTION TO QUASH INFORMATION
AND DISCHARGE DEFENDANTS.

OCT 10 1927

ROWLETTE, PERRY & MAHONEY,
ATTORNEYS FOR DEFENDANTS,
1700 St. Antoine Street,
Detroit, Michigan.

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JOHN LATTING and
HEWITT WATSON, ✓

RESPONDENTS.

TO ROBERT M. TOMS,
PROSECUTING ATTORNEY,
WAYNE COUNTY, MICHIGAN.

HONORABLE SIR:

PLEASE TAKE NOTICE, that a motion, of which the attached is a true copy, will be brought on for hearing before the Honorable Frank Murphy, Judge of the Recorder's Court, at the opening of Court on Tuesday, the 13th day of October A.D. 1925, or as soon thereafter as counsel can be heard and the same urged to be granted.

Yours, etc.,

Rowlett Perry Madorey
Attorneys
1700 St. ~~Antoine~~
Detroit, MI

DATED: OCTOBER 10th A.D. 1925.

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RESPONDENTS.

COUNTY OF WAYNE SS.

Now comes the defendants, Ossian Sweet, Gladys Sweet, Joe Mack, Henry W. Sweet, Morris Murray, Otis Sweet, Charles B. Washington, Leonard C. Morris, William E. Davis, John Latting and Hewitt Watson, by their attorneys, Cecil L. Rowlette, Julian W. Perry and Charles H. Mahoney, and move the Court to quash the information heretofore filed in the above entitled cause in the September Term A.D. 1925, and to discharge the said defendants for the following reasons, to-wit:

I.

There is no evidence disclosed in the record of the preliminary hearing in this cause and upon which this information is based, to show probable cause that these or either of these defendants killed or murdered Leon Briener, the deceased.

II.

That there is no evidence disclosed by the record of the preliminary hearing or examination heretofore held on the 16th day of September A.D. 1925, before the Honorable John Faust, Judge of the Recorder's Court, to show that these defendants or either of them fired the shot which resulted in the death of Leon Briener, nor is there any evidence to connect them with same.

III.

That there was no evidence shown upon the preliminary hearing in this cause to show probable cause that these defendants or any of them conspired to kill and murder Leon Briener, the deceased.

IV.

That there was no evidence shown upon the preliminary hearing producing probable cause that these defendants or any of them either fired the shot or caused said shot to be fired which resulted in the death of Leon Briener, or that they or either of them ratified the acts and conduct of the person or persons firing said shots.

V.

That as to Gladys Sweet, the evidence of the preliminary hearing clearly shows that she was the wife of Ossian Sweet, one of the defendants, and that they were in their home at the time of the shooting, and that the said Ossian Sweet being present there the said evidence fails to disclose that there was probable cause to show that the said Gladys Sweet was not coerced and did not act under the influence and persuasion of her husband.

VI.

That said defendants are prosecuted under Section 15192 of the Compiled Laws of the State of Michigan for 1915 which reads as follows:

"All murder which shall be perpetrated by means of poison or lying in wait, or any other kind of wilfull, deliberate and premeditated killing; or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery or burglary shall be deemed murder in the first degree and shall be punished by solitary confinement at hard labor in the State Prison for life."

Under which statute it would be necessary to determine which of the said defendants fired the shot that resulted in the death of Leon Briener, and he or she alone could be prosecuted under said statute.

This motion is based upon the files and records in this cause and upon the affidavit of Cecil L. Rowlette, hereto attached.

Rowlette Perry + Mahoney
Attorneys for Respondents,
1700 St. Antoine Street,
Detroit, Michigan.

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Cecil L. Rowlette, being duly sworn, deposes and says that he is one of the attorneys for the above named defendants and that he was present and took an active part in conducting the examination in the said cause heretofore held before the Honorable John Faust, Judge of the Recorder's Court, on to-wit, the 16th day of September A.D. 1925, upon which the information in this cause is based.

Deponent further says that after reading the evidence taken at said examination or hearing, he is convinced that said evidence does not show probable cause that Ossian Sweet, Gladys Sweet, Joe Mack, Henry W. Sweet, Morris Murray, Otis Sweet, Charles B. Washington, Leonard C. Morris, William E. Davis, John Lattling and Hewitt Watson, or either of them committed the crime of murder complained of in the information; nor does the evidence disclose the facts and circumstances which would constitute a conspiracy on the part of the defendants; nor does the evidence show any facts and circumstances which would connect these defendants or either of them with the shooting on the 9th day of September A.D. 1925; and for that reason, as above stated, the evidence was insufficient upon which to bind the defendants, Ossian Sweet, Gladys Sweet, Joe Mack, Henry W. Sweet, Morris Murray, Otis Sweet, Charles B. Washington, Leonard C. Morris, William E. Davis, John Lattling and Hewitt Watson over for trial in this court and therefore the information heretofore filed in the September Term A.D. 1925 of said Court should be quashed and these defendants discharged.

Further deponent says not.

Subscribed and sworn to before Cecil L. Rowlette
me this 10th day of Oct. A.D. 1925.