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12-26-1752

### Provincial Case File No. 26947 and Judgment Book of Superior Court, Vol. B, Sept. 1750 - Mar. 1754, at 287-88, New Hampshire State Archives - Ebenezer Ayers

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Our Sovereign Lord the King against Ebenezer  
 Ayres the Jury find that the said Ebenezer on or about  
 the 17<sup>th</sup> of Sept.<sup>r</sup> <sup>1752</sup> ~~last~~ at a Place called Sumoke in the  
 Township of Bow in the Province of New Hampshire was  
 about ~~the~~ his Lawful Business That he then & there  
 Discharg'd a Gun upon the said James Rogers <sup>mentioned</sup> ~~mentioned~~  
 in the Indictment & thereby gave him a Mortal  
 wound whereof he Died in about fourteen hours after-  
 wards. That the said Ebenezer supposed that he shot  
 at a Bear ~~it being~~ the said James being in a Thicket  
 of Bushes at the time of the ~~said~~ Discharge of the said Gun  
 they therefore find that the said Killing was by ~~misfor-~~  
~~tune or Misadventure~~ Misadventure and not by of Malice foretho't  
 or by wilful Murder

Thos. Prince for my



And done feloniously and of Malice for thought made & spouts  
upon the body of one James Rogers of a place called Mark's town  
in the Province of New Hampshire aforesaid. Yeoman then &  
there being in the Peace of God & of our said Lord the King and  
that the said Ebenezer then and there in manner as aforesaid did  
Discharge a hand Gun of the Value of two pounds (which he then  
& there held in both his hands) loaden with Gun powder & lead in  
and upon the body of the said James Rogers and shot two bullets  
into the lower part of the belly of the said James Rogers which  
two bullets entered into the body of the said James Rogers & thereby  
gave the said James Rogers two mortal Wounds of the length  
of three inches each and the breadth of half an inch each of  
which mortal Wounds the said James Rogers languished for  
the space of about fourteen hours and then & there died. And  
the Jurors aforesaid upon their Oaths say that the said Ebenezer  
Rogers in manner as aforesaid then & there feloniously killed & mur-  
dered the same James Rogers against the Peace of our said Lord  
the King that robs his Crown & Dignity to the evil example  
of others in the like case offending and against the law in that  
case made & provided. The said Ebenezer Rogers being arraigned upon  
this Indictment & having the same distinctly read unto him pleads not  
guilty & puts himself on Trial by God & the Country - The prisoner being  
brought to the bar & having pleaded not guilty of the Indictment a Jury  
being legally sworn between the King & the Prisoner for trial the Kings Attor-  
ney & Counsell for the prisoner being fully heard upon the evidence the Jury  
withdrew for trial & when into Court & upon their Oaths say the Jury find that  
the said Ebenezer on or about the 17<sup>th</sup> day of September 1752 at a place  
called Suncook in the Township of Bow in the Province of New  
Hampshire was about his lawfull business that he then & there  
discharged a Gun upon the said James Rogers mentioned in the  
Indictment and thereby gave him a mortal Wound whereof he  
died in about fourteen hours afterwards: that the said Ebenezer  
Supposed

Supposed that he shot at a tree the said James being in a  
Thicket of bushes at the time of the Discharge of the said Gun.  
They therefore find that the said killing was by misadventure  
and not of malice forethought or by Willfull murder. The above  
Verdict was read to the said Bench & he was asked if he had any  
thing to offer to the Court in arrest of Judgement upon said Verdict.  
he answered he had nothing to offer in arrest of Judgement - which  
Verdict being read and the special Matter thereof duly considered  
by the Court the Court is of opinion that the said Ebenezer  
Ayres killed the said James Rogers by misadventure only.  
It is therefore considered by the Court that the said Ebenezer Ayres  
be remanded to his Majestys Goal there to remain till he be  
discharged by his Majestys Grace & favour

Mathew Livermore of Portsmouth in the Province of New Hampshire  
Esq Attorney General for the Province <sup>aforsaid</sup> ~~New Hampshire~~ Comes into Court  
and gives this Court to understand & be informed that Henry Murray  
& Mingo Dominic Alias Antonio Mingo now resident at Portsmouth  
aforsaid Mariners in the Evening immediately following the eighteenth  
day of December 1752 at Portsmouth aforsaid with force and Arms  
made an Assault on the body of one William Clark now President  
at Portsmouth aforsaid mariner and then & there in manner as  
aforsaid with Clubs Swords and Stangers did beat Wound & Kill  
Jostreat him the said William Clark in a most barbarous & Inhuman  
manner & break the Skull of him the said William Clark & caused a  
great Effusion of blood & other enormities then & there perpetrated & did  
against his Majestys Peace Crown & Dignity & against the law in such  
Case made & provided wherefore the said Mathew Livermore in the Ca-  
pacity aforsaid prays the advisement of this Hon<sup>ble</sup> Court on the premises  
that the said Henry Murray & Mingo Dominic Alias Antonio Mingo may  
be apprehended & brought into Court & proceeded with pursuant to law

Rex vs Murray &  
24<sup>th</sup> Dec 1752  
Tho: Deane Foreman  
Joh<sup>n</sup> Robinson  
Phil: Wadleigh  
Josh: Hill  
Nehemiah Furber  
Jon<sup>s</sup> Gordon  
Jm<sup>s</sup> Talford  
Sol<sup>d</sup> Dorset  
Joseph Leavitt  
Joh<sup>n</sup> Whidden  
Henry Carter  
Warrant for  
Execution of Judge-  
ment Issued Dec<sup>r</sup>  
26<sup>th</sup> 1752

The