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Arkansas records, 1839-1908

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1876 May 06: Voucher, to C.C. Ayers, of Fort Smith, Arkansas, for assisting W.R. Ayers, U.S. deputy marshal, in U.S. v. Wilson (alias Sunker Wilson, Flyer Wilson, Acorn), murder and U.S. v. Benjamin Mudeater, assault with intent to kill; Stephen Wheeler, clerk; J.F. Fagan, U.S. marshal

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Voucher 59
To
Abstract 6

FILED

FEB 29 1876

W. H. Clark
CLERK.

The United States of America,

To *W. H. Ayers* Dr.

1876 For *30* days' services as posse comitatus, from *Feb 10* to *Mch 10* 1876
both days inclusive, at \$3.00 per day. \$ *900*

UNITED STATES OF AMERICA,

Western District of Arkansas.

W. H. Ayers of *Fort Smith* in the county of *Sebastian* and district aforesaid, being duly sworn, depose and say, that on the *10* day of *February* 1876, I was employed under and by virtue of the third section of Act of Congress, of June 14, 1853, by

W. H. Ayers, U. S. Deputy Marshal for said district, at my usual place of residence, as one of his posse comitatus, to assist in executing the following *Bench Warrants* *United States vs*

Wilson *alias Sinker Wilson* *alias Flyer Wilson* *alias Acorn*
Charged with Murder in the Indian Country
and the United States vs Ben. Mudeater
Charged with Assault with intent to Kill
in the Indian Country

issued by *Stephen Wheeler* *Clerk* U. S. Commissioner for the Western District of Arkansas, within the jurisdiction of the said district, returnable to the office of said *Clerk* *Commissioner*, at *Fort Smith* in *Sebastian* County, Ark., *forthwith* 1876; and that as such posse comitatus, I immediately proceeded in company with said Marshal to

The Cherokee Nation at a point near
Baxter Springs *Kansas*, where on the *22* day of *February* 1876, I assisted said Deputy to arrest said *Wilson* *alias Sinker Wilson* *alias Flyer Wilson* *alias Acorn*

from there we went direct to Ottawa Reservoir near Baxter Springs Kansas a distance of 145 miles to arrest Ben Mudriater. we arrived at said place on the 27th day of February 1876, and were actually and necessarily employed from said date Feb 27th to March 4th on which day we did arrest said Ben Mudriater and from there we returned direct to Fort Smith arriving at said place on the 10th day of March 1876.

to _____ before the U. S. Commissioner; that no posse comitatus could have been employed at a nearer point to the place where the said Deputy informed me he expected to find the said Defendants

to wit: In the Cherokee Nation near Elgin Kansas and Ottawa Nation near Baxter Springs Kansas, than my place of residence aforesaid; that I actually traveled from my said residence to said places of arrest for the purpose aforesaid 600 miles, and in the transportation of said defendants, and was actually and necessarily employed 30 days, as set out in the foregoing account as posse comitatus, solely in the execution of said processes and transportation of the said defendants as aforesaid; that I furnished the means of, or actually paid for my own travel or transportation, and that I have received from said Marshal and signed duplicate receipts therefor, the sum of Ninety X dollars, in lawful currency of the United States, in full satisfaction and payment of my said expenses and services; that I have never received or been paid, or agreed to receive, or expect to be paid any other compensation, remuneration, or consideration whatever for said expenses and 30 days' services, from any other person or persons, or sources whatever: So help me God.

Subscribed and sworn to before me this 28th day of April 1876, by the above named C. C. Ayres who personally appeared before me and was by me known to be the identical person he represents himself.

C. C. Ayres
Clerk U. S. Dist. Court West. Dist. of Ark.
Stephan Wheeler
Deputy U. S. Marshal

UNITED STATES OF AMERICA, } ss.
Western District of Arkansas,

I, W. R. Ayres do solemnly swear that I am duly and regularly commissioned as a Deputy U. S. Marshal for said district, that the employment of a posse comitatus at Fort Smith under the act of Congress of June 14, 1858, was actually and indispensably necessary to enable me to serve the warrants in my possession, and that I could not without great peril have attempted to serve the warrants entrusted to me, without the assistance of a posse comitatus; that I have examined the within account and certify that the services were performed and actually rendered as therein stated, and that the amount charged therefor is reasonable and just, and that I have no interest in the same.

Sworn to and subscribed before me this 7th day of May 1876, by the above named W. R. Ayres, who personally appeared and was by me known to be the identical person he represents himself.

W. R. Ayres
Deputy U. S. Marshal.
Stephan Wheeler
Clerk U. S. Dist. Court, West. Dist. of Ark.

I, JAMES F. FAGAN, U. S. Marshal for the Western District of Arkansas, do certify that I have carefully inquired into the matters set forth in the foregoing affidavits, and that the matters and things therein set forth are true and the services of the posse comitatus employed by my Deputy were absolutely necessary to the due and proper service and execution of said warrants; and that a posse comitatus could not have been obtained any nearer than the place said posse comitatus was employed.

Received payment of James F. Fagan, U. S. Marshal for the Western District of Arkansas, in the sum of Ninety X dollars in full of the within account.

J. F. Fagan
U. S. Marshal West. Dist. of Ark.
C. C. Ayres