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Arkansas records, 1839-1908

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1877 August 31: Voucher, to Ben F. Ayers, of Fort Smith, Arkansas, for assisting C.C. Ayers, U.S. deputy marshal, in U.S. v. John Smith, et. Al, assault with intent to kill; Stephen Wheeler, clerk; D.P. Upham, U.S. marshal

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The United States of America,

1877,

To Ben H. Ayers, Dr.

For 21 days' services as posse comitatus, from Aug 7 to August 27, 1877, both days inclusive, at \$3.00 per day, \$ 63.00

UNITED STATES OF AMERICA, }
Western District of Arkansas.

I, Ben H. Ayers, of Hart Smith, in the County of Sebastian and District aforesaid, being duly sworn, depose and say, that on the 7 day of August, 1877, I was employed under and by virtue of the third section of the Act of Congress of June 14, 1858, by C. C. 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 capias writs, to-wit: United States vs John Smith et al Charged with committing an assault with intent to kill in the Indian Country

issued by Stephen Wheeler, U. S. Clerk for the Western District of Arkansas, within the jurisdiction of the said District, returnable to the office of said Commissioner, at Hart Smith in Sebastian County, Arkansas, August Term, 1877, and that as such posse comitatus, I immediately proceeded in company with said Marshal to a farm in the Cherokee Nation 12 miles south of Porter Runaus. - where on the 19th day of August 1877, I assisted said Deputy Marshal in making the arrest of Albert Morris. Returning thence direct to Hart Smith

to Hart Smith before the U. S. Clerk; 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

to wit: Cherokee Nation

than my place of residence aforesaid; that I actually traveled from my said residence to said place of arrest for the purpose aforesaid 484 miles, and in the transportation of said defendants, and was actually and necessarily employed 21 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 _____ 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 what ever for said expenses and 21 days' services, from any other person or persons, or sources whatever: So help me God.

Subscribed and sworn to before me this 31st day of August 1877, by the above named Ben H. Ayers who personally appeared before me and was by me known to be the identical person he represents himself.

Ben H. Ayers
Stephen Wheeler
Clerk U. S. Dist. Court West. Dist. Ark.
J. A. Williams

C - P

I, C. C. Ayers 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 Hort 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.

C. C. Ayers
Deputy U. S. Marshal.

Sworn to and subscribed before me this 30th day of August, A. D. 1877, by the above named C. C. Ayers, who personally appeared and was by me known to be the identical person he represents himself.

Stephen Wheeler
Clerk U. S. Dist. Court West. Dist. Ark.

I, D. P. UPHAM, 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.

D. P. Upham
U. S. Marshal Western District of Arkansas.

Received payment of D. P. UPHAM, U. S. Marshal for the Western District of Arkansas, in the sum of

Sixty Three dollars, in full of the within account.

Ben & Ayers

VOUCHER NO. 5

—TO—

ABSTRACT NO. 6.

Term, 187

Refer to Voucher No. 9 Abstract 4.

FILED
SEP 12 1877
Stephen Wheeler
CLERK

D. P. UPHAM,
U. S. Marshal Western Dist. Arkansas.

1 D. M. 510