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United States Western District Court of  
Arkansas records, 1839-1908

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**1878 October 29: Voucher, to Hugh Simpson, of Fort Smith, Arkansas, for assisting J.W. Searle, U.S. deputy marshal, in U.S. v. Thomas Ballard, assault with intent to kill; Stephen Wheeler, commissioner; D.P. Upham, U.S. marshal**

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The United States of America,  
1878

To *Hugh Simpson* Dr.  
October 14 to 15 1878, both

For 2 days' services as posse comitatus, from  
days inclusive, at \$3.00 per day, \$ 6<sup>00</sup>

UNITED STATES OF AMERICA,  
Western District of Arkansas.

I, *Hugh Simpson*, of *Fort Smith*, in the County  
of *Sebastian* and District aforesaid, being duly sworn, depose and say, that on the *14<sup>th</sup>* of  
*October* 1878, I was employed under and by virtue of the third section of the Act of Congress of June  
14, 1858, by *J. W. Seale*, 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:

*U.S. vs Thomas Ballard*

*Charged with assault with intent to kill*

issued by *Stephen Wheeler Esqr*, U. S. Commissioner for the Western District of Arkansas, within the  
jurisdiction of the said District, returnable to the office of said Commissioner, at *Fort Smith* in  
County, Arkansas, *Fort Smith*, 1878; and that as such posse  
comitatus, I immediately proceeded in company with said Marshal to *a point in the Cherokee*  
*Nation 15 miles north west from Fort Smith Arkansas*  
*where we camped over night and arrested the said*  
*Ballard at day break on the 15<sup>th</sup> of October whereupon*  
*we returned at once*

to *Fort Smith* 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

*Ballard*

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 *15* miles, and in the transportation of  
said defendants, and was actually and necessarily employed *2* 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 *2* days' services, from any other person or persons, or sources whatever: So help me God.

Subscribed and sworn to before me this \_\_\_\_\_ day of *October* 1878, by  
the above named *Hugh Simpson* who personally  
appeared *before me Stephen Wheeler Clerk* and was by me  
known to be the identical person he represents himself.

*Hugh Simpson*  
*Stephen Wheeler*  
Clerk U. S. Dist. Court West. Dist. Ark.



I, J. W. Searle 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 29th day of October, A. D. 1878, by the above named J. W. Searle, who personally appeared and was by me known to be the identical person he represents himself.

J. W. Searle  
Deputy U. S. Marshal.

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 Five dollars, in full of the within account.

Hugh Simpson

**VOUCHER NO.**  
—TO—  
**ABSTRACT NO. 6.**  
August Term, 1878

Refer to Voucher No. 16 Abstract 4.

**FILLED**  
NOV 18 1878  
Wheeler  
CLERK.

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

Simpson