

HAWKINS v. STATE.

Decided January 23, 1892.

Malicious mischief—Severing produce from the freehold.

An indictment under Mansfield's Digest, section 1658, which charges that defendant maliciously did sever from the freehold five watermelons of value named, of the property of a person named, contains a sufficient allegation of ownership.

APPEAL from *Marion* Circuit Court.

B. B. HUDGINS, Judge.

John Hawkins and two others were convicted under an indictment which charged that they "unlawfully and malic-

iously did sever from the freehold five watermelons of the value of twenty-five cents each, of the property of Smith Madewells." A motion in arrest of judgment was overruled, and they appealed.

The appellants, *pro se*.

The indictment is insufficient in not alleging the ownership of the freehold.

W. E. Atkinson, Attorney General, and *Charles T. Coleman* for appellee.

It is sufficient to follow the language of the statute. Mansf. Dig., sec. 1658; 47 Ark., 476; 45 *id.*, 173; 41 *id.*, 226; 40 *id.*, 361; 39 *id.*, 216.

HEMINGWAY, J. Under the statute which provides that every person who shall "maliciously sever from the freehold any produce thereof or anything attached thereto shall upon conviction be adjudged guilty of a misdemeanor" (Mansf. Digest, sec. 1658), an indictment which charges that the defendants "maliciously did sever from the freehold five watermelons, of the value of twenty-five cents each, of the property of Smith Madewells" contains a sufficient allegation of ownership to describe and identify the offense and to sustain a judgment of conviction. The sufficiency of the indictment in this respect being the only matter urged for a reversal, the judgment is affirmed.
