

YOUNG *v.* STATE.

Opinion delivered December 3, 1904.

LARCENY—ALLEGATION OF OWNERSHIP—VARIANCE.—Proof that stolen property alleged to belong to Johnson belonged to Arnold makes a fatal variance.

Appeal from Nevada Circuit Court.

JOEL D. CONWAY, Judge.

*C. C. Hamby* and *Geo. R. Haynie*, for appellant.

*George W. Murphy*, Attorney General, for appellee.

WOOD, J. The indictment charged appellant with stealing seed cotton, the property of William Johnson. The proof showed that the cotton alleged to have been stolen was the property of one Mose Arnold. The court should have charged the jury that the variance between the allegation and the proof was fatal to a conviction upon this indictment. *Spears v. State*, 70 Ark. 144; *Blankenship v. State*, 55 Ark. 224.

Confession of error sustained.

Reversed and remanded.

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