

## MAYERS vs. THE STATE.

This court will not interfere and reverse a judgment of the circuit court for refusing a new trial upon the weight of evidence.

*Writ of Error to the Circuit Court of Crawford County.*

THIS was an indictment against Abram G. Mayers for an assault and battery, determined in the Crawford circuit court at the August term, 1845, before BROWN, judge.

The indictment charged the defendant with an assault and battery upon one *Mannet*, whose christian name to the grand jurors was unknown, on the 10th June 1844, in said county. The case was submitted to a jury, on plea of not guilty, and defendant was convicted. He moved for a new trial on the ground that the verdict was contrary to evidence, which the court refused, he excepted and took a bill of exceptions, setting out the evidence, which was in substance as follows:

Standifer, witness for the State, stated that about the 10th June 1844, he saw defendant strike a man divers hard blows with his fists, in Crawford county. He did not know the name of the person upon whom the battery was committed, but heard some one say his name was *Mannet*. Hunter, another witness for the State, testified that he saw defendant strike a man several times with his fists in a rude and angry manner, in the month of June 1844, in said county. Witness had heard the name of the person upon whom the offence was committed, but had entirely forgotten it—that it

sounded like *Manet*, *Mannet*, *Menet*, or some such name: which was all the evidence introduced on the trial.

Defendant brought error.

W. WALKER, for plaintiff.

WATKINS, Attorney General, contra.

OLDHAM, J. It has frequently been decided by this court that it will not interfere and reverse a judgment of the circuit court for refusing a new trial upon the mere weight of evidence. In this case the defendant below introduced no evidence, and that produced by the State fully warranted the verdict of the jury.

Judgment affirmed.

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