

THE STATE VS. KING.

The rule in criminal prosecutions, applying as well to misdemeanors as to cases involving life and liberty, is that the jury are not to find the defendant guilty upon the mere preponderance of evidence: he is entitled to the benefit of all reasonable doubt.

Appeal from Lawrence Circuit Court.

HON. WILLIAM C. BEVENS, Circuit Judge.

JOHNSON, Attorney General, for the State.

Mr. Chief Justice ENGLISH delivered the opinion of the Court.

King was indicted in the Lawrence Circuit Court for an assault and battery, tried by a jury and acquitted.

On the trial, the prosecuting attorney moved the Court to instruct the jury, as follows:

"The jury, in cases of misdemeanors, are not required to find all the allegations in the indictment proven *beyond all doubt*, (the doctrine of doubts being alone applicable to felonies;) and they are required to determine as to the guilt or innocence of the defendant, by the weight or preponderance of evidence in the case. The rule for the decision of misdemeanors punishable by fine only, being the same, as to the preponderance of evidence, as in civil cases."

The Court refused so to instruct the jury, and the prosecuting attorney excepted.

It is not necessary to a conviction in any criminal case, that *all the allegations* in the indictment should be proven *beyond all doubt*. The rule is, that the jury are not to find the defendant

guilty upon the mere preponderance of evidence, but that they must be satisfied, *beyond a reasonable doubt*, that the proof sustains the material allegations of the indictment, otherwise they should acquit. And this rule doubtless applies to misdemeanors as well as to felonies. *Giles vs. The State*, 6 *Geo. R.* 285; 1 *Stark. Ev.* 514; *People vs. Judges of Duchess*, 2 *Barb. Sup. Ct. R.* 282; 22 *St. Trials*, 237, 308; 2 *Halstead's Evid.* 497; 1 *Greenl.*^t. 13.

The State must establish the guilt of the accused in all cases before he can be condemned, and he is entitled, by a humane provision of the law, to the benefit of all reasonable doubts. It is doubtless true, however, that a jury should be more cautious in making up their judgment in cases involving the liberty or life of the accused, than in cases punishable by fine only; but in no case should they return a verdict against the accused where they really have a reasonable and well founded doubt of his guilt.

The judgment is affirmed.