

ROBINSON *vs.* THE STATE.

Where there is no exception taken to a refusal to grant a new trial, this court cannot revise the decision.
Where an indictment charges the defendant that "feloniously, willfully, and of his malice aforethought, he made an assault with intent to kill one," naming him, it is sufficient.

THIS was an indictment for an assault, with intent to murder, tried in the Crawford circuit court, in March, 1844, before the Hon. R. C. S. BROWN, one of the circuit judges. The indictment was, after the usual introductory clause, "that James Robinson, on the first day

of August, in the year of our Lord one thousand eight hundred and forty-two, at the county aforesaid, in and upon one Emily Bishop feloniously, willfully, and of his malice aforethought, with a certain pistol, which he, the said James Robinson, in his right hand then and there held, an assault did make, with intent, him, the said Emily Bishop, feloniously, willfully, and of his malice aforethought to murder, against the peace and dignity of the State of Arkansas;" with the proper conclusion. The jury found him guilty, "and said, that the said James Robinson shall undergo an imprisonment in the public jail and penitentiary house of the State of Arkansas for the period of three years." Robinson moved for a new trial, because the verdict was against law and evidence. This motion was overruled; and he moved in arrest of judgment, because there was no sufficient indictment, which was overruled; it then being demanded of him if he had anything further to say why sentence should not pass, and he saying nothing further than what he had before urged—sentence was accordingly pronounced in accordance with the verdict. He then prayed an appeal to this court, which was granted, and he required to enter into recognizance in \$1,000, to appear here, and prosecute his appeal. No bill of exceptions was filed, nor does it appear that any exception was taken.

Cummins, for appellant.

Watkins, Attorney General, contra.

By the court, SEBASTIAN, J. The judgment in this case must be affirmed. There is no exception taken to the refusal to grant a new trial, and of course it cannot be noticed. The motion to arrest the judgment was properly overruled. The indictment charges the offence with accuracy and precision. It alleges that the defendant feloniously, wilfully, and of his malice aforethought, made an assault with intent to kill one Emily Bishop. This charge is every way sufficient, and pursues the statute and substantially complies with its requisites.

Judgment affirmed.