

Ruling in the Scottsboro Trial by Judge James E. Horton

THE COURT'S COMMENTS ON THE STATE'S CASE

This is the State's evidence. It corroborates Victoria Price slightly, if at all, and her evidence is so contradictory to the evidence of the doctors who examined her that it has been impossible for the Court to **reconcile** their evidence with hers.

Next, was the evidence of Victoria Price reasonable or probable? Were the facts stated reasonable? This is one of the tests the law applies.

Rape is a crime usually committed in secrecy. A secluded place or a place where one ordinarily would not be observed is the natural selection for the scene of such a crime. The time and place and stage of this alleged act are such to make one wonder and question did such occur under such circumstances. The day is a sunshiny day the latter part in March; the time of day is shortly after the noon hour. The place is upon a gondola or car without a top. This gondola, according to the evidence of Mr. Turner, the conductor, was filled to within six inches to twelve or fourteen inches of the top with chert, and according to Victoria Price up to one and one half feet or two feet of the top. The whole performance necessarily being in plain view of any one observing the train as it passed. Open gondolas on each side.

On top of this chert twelve negroes rape two white women; they undress them as they are standing up on this chert; the prosecuting witness then is thrown down and with one negro continuously kneeling over her with a knife at her throat, one or more holding her legs, six negroes successively have intercourse with her on top of that chert; as one arises off of her person, another lies down upon her; those not engaged are standing or sitting around; this continues without intermission although that freight train travels for some forty miles through the heart of Jackson County; through Fackler, Hollywood, Scottsboro, Larkinsville, Lin Rock, and Woodsville, slowing up in several of these places until it is halted at Paint Rock; Gilley, a white boy, pulled back on the train by the negroes, and sitting off, according to Victoria Price, in one end of the gondola, a witness to the whole scene; yet he stays on the train, and he does not attempt to get off of the car at any of the places it slows up to call for help; he does not go back to the caboose to report to the conductor or to the engineer in the engine, although no compulsion is being exercised on him, and instead of there being any threat of danger to him from the negroes, they themselves have pulled him back on the train to prevent his being injured from jumping from the train after it had increased its speed; and in the end by a fortuitous circumstance just before the train pulls into Paint Rock, the rapists cease and just in the nick of time the overalls are drawn up and fastened and the women appear clothed as the posse sights them. The natural **inclination** of the mind is to doubt and to seek further search.

Her manner of testifying and demeanor on the stand militate against her. Her testimony was contradictory, often evasive, and time and again she refused to answer **pertinent** questions. The gravity of the offense and

the importance of her testimony demanded **candor** and sincerity. In addition to this the proof tends strongly to show that she knowingly testified falsely in many material aspects of the case. All this requires the more careful scrutiny of her evidence.

The Court has heretofore devoted itself particularly to the State's evidence; this evidence fails to corroborate Victoria Price in those physical facts; the condition of the woman raped necessarily speaking more powerfully than any witness can speak who did not view the **performance** itself.

COMMENT ON CREDIBILITY OF VICTORIA PRICE [Omitted]
CONCLUSION

History, sacred and profane, and the common experience of mankind teach us that women of the character shown in this case are prone for selfish reasons to make false accusations both of rape and of insult upon the slightest provocation for ulterior purposes. These women are shown, by the great weight of the evidence, on this very day before leaving Chattanooga, to have falsely accused two negroes of insulting them, and of almost precipitating a fight between one of the white boys they were in company with and these two negroes. This tendency on the part of the women shows that they are predisposed to make false accusations upon any occasion whereby their selfish ends may be gained.

The Court will not pursue the evidence any further.

As heretofore stated the law declares that a defendant should not be convicted without corroboration where the testimony of the prosecutrix bears on its face indications of improbability or unreliability and particularly when it is contradicted by other evidence.

The testimony of the prosecutrix in this case is not only uncorroborated, but it also bears on its face indications of improbability and is contradicted by other evidence, and in addition thereto the evidence greatly preponderates in favor of the defendant. It therefore becomes the duty of the Court under the law to grant the motion made in this case.

It is therefore ordered and adjudged by the Court that the motion be granted; that the verdict of the jury in this case and the judgment of the Court sentencing this defendant to death be set aside and that a new trial be and the same is hereby ordered.

James E. Horton, Circuit Judge