

Socorro County

COLD CASES

— Part 1

Originally published in El Defensor Chieftain newspaper, Saturday, May 3, 2008

By Paul Harden, na5n@zianet.com
For El Defensor Chieftain

Cold cases are serious crimes, usually murder, that either go unsolved, or remain unsolved for a long period of time. There have been cold cases in Socorro County from Territorial days to the present. This 2-part article presents some of them.

The Brian Darling Case

In November 1997, New Mexico Tech student Brian Darling went hiking as he was accustomed to doing. He was never seen or heard from again. Searches by law enforcement and volunteers around Strawberry and Socorro Peaks found no traces of Brian.

As the weeks and months rolled on with no sign of Brian, it became obvious he had come to some unknown and tragic end. Darling's disappearance was a true mystery, and a true Socorro County cold case.

Ten years later, on August 26, 2007, another New Mexico Tech student, Christina Forbes, went on a bike ride in the mountains north of Socorro. On the southeast side of Strawberry Peak, Christina stumbled across the skeletal remains of a human being near an arroyo. She marked the location on her GPS, returned to Socorro and immediately notified the police. The next day, the remains, a wallet and a nearby handgun were recovered by the Socorro County Sheriff's Department. They were sent to the Office of Medical Investigations for identification and forensic study.

A month later, the OMI report positively identified the remains as that of missing student Brian Darling. He had been shot in the head by the handgun found nearby, ruling his death as a suicide. A memorial service was held in Socorro for family and friends of Brian Darling.

"This (case) really bothered me for years," Chief Deputy Preciliano "Shorty" Vaiza told El Defensor



Photo by Paul Harden

Strawberry Peak, north of Socorro Peak (M-Mountain).

Chieftain (Aug. 29, 2007 issue). Had not the body been discovered, it would still be one of Socorro County's unsolved mysteries.

This unfortunate incident raises the question, "how many unsolved mysteries and cold cases are there in Socorro County?"

Searching through old Socorro Chieftain newspapers, and contacting the Sheriff's Department, it turns out, quite a few. Some of them are presented in this 2-part article.

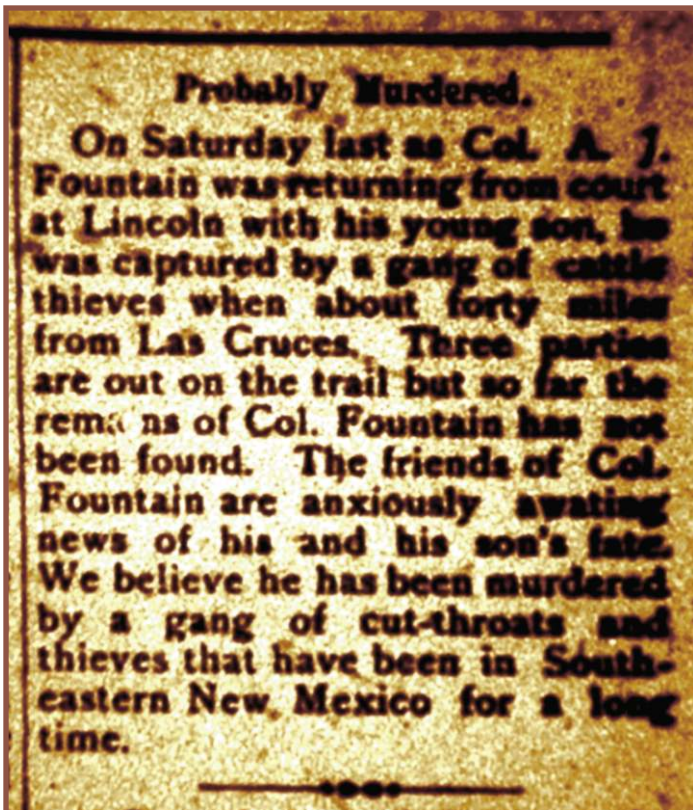
The Fountain Case

On Feb. 1, 1896, Doña Ana County Assistant District Attorney Albert Fountain, and his eight year old son Henry, were returning from court in Lincoln to their home in Mesilla. Somewhere along the trail, they disappeared and were presumed murdered. To this day, their bodies have never been found.



Col. Albert Fountain - murdered in 1896.

Without a doubt, the Fountain murder is the most famous cold case in New Mexico history.



Socorro Chieftain archives

The original article reporting the presumed murder of Col. Albert Fountain and his son, Henry. This Socorro Chieftain article predates all known "first reports" of the famous murders in the other New Mexico newspapers by several days.

In the year prior to his disappearance, Fountain was acting as special prosecutor in Socorro County. Through his efforts, numerous cattle rustlers in western Socorro County, specifically operating from Horse Springs to Quemado, were apprehended, tried and sentenced to prison. The trials were held in the Socorro County courthouse.

In mid-1895, Fountain moved on to Lincoln County to investigate and arraign a ring of shady cattle barons. On Feb. 1, 1896, Fountain had received indictments against several suspected cattle rustlers, including well-known cattle baron Oliver Lee. Following the proceedings, Fountain and his son took the road from Lincoln back to Mesilla through the White Sands area. They never arrived home.

The next day, Fountain's buckboard wagon was found abandoned on the road. Nearby were two pools of blood, several spent bullet casings, and some of his legal papers — not found were Albert Fountain or his son.

Sheriff Pat Garrett, who was famous for having killed Billy the Kid, was given the case. The governor even

offered an award and hired the Pinkerton Detective Agency to help find the killers.

All leads seemed to lead to Oliver Lee and his two hired hands, James Gilliland and William McNew. About a year later, after refusing to surrender to Pat Garrett, they finally surrendered to the sheriff in Otero County instead and claimed their innocence in the Fountain murders.

In its day, this turned into a hot case throughout New Mexico. Basically, it was Democrats vs. Republicans.

Oliver Lee, his attorney Albert Fall, and cohorts were Democrats. Albert Fountain and Pat Garrett were prominent Republicans. It was never a secret these two factions hated each other.

As Albert Fall proclaimed: "This is merely a case of the blood thirsty Republicans wanting to crucify innocent Democrats." Some believed Fountain's murder was ordered by attorney Fall himself.

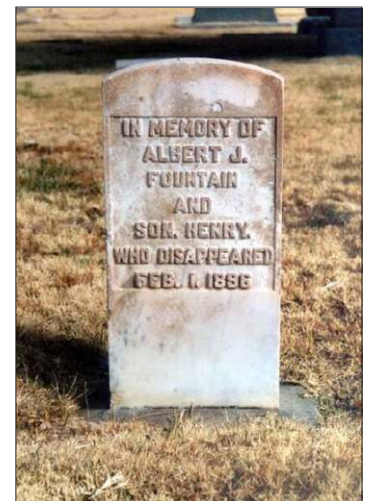
Fearing Lee, Gilliland and McNew would be killed before they could make it to the courtroom, they were moved to the Socorro County jail to await trial.

Charges were dropped against McNew, with Lee and Gilliland charged for the murder of Henry Fountain, but not Albert. The trial, which was held in Hillsboro, lasted all day and stretched toward midnight. Attorney Fall demanded the jury immediately render a verdict. The tired and exhausted jury deliberated for less than an hour to return a not guilty verdict.

Did the jury find Oliver Lee and James Gilliland innocent based on evidence? Or, were they simply too exhausted to deliberate at the midnight hour?

Regardless, Lee and Gilliland walked out of the Hillsboro courthouse as free men. The murders of Albert and Henry Fountain remained a cold case.

In 1949, the now 50-year-old Fountain murder case took



Courtesy findagrave.com

The headstone at the Las Cruces cemetery for Albert and Henry Fountain — even though their slain bodies have never been found.



Courtesy DesertUSA.com

Chalk Hill is where Albert and Henry Fountain were believed to have been killed. The area is 28 miles east of Las Cruces near U.S. 70.

another twist. On his deathbed, convicted outlaw and train robber Sam Ketchum confessed to authorities that it was he and his brother, Tom Ketchum, that were hired to kill Albert Fountain and his "half breed" son. It was Tom who supposedly pulled the trigger.

While he refused to answer who hired them, he did describe exactly where they were killed and the location near Chalk Hill where they burned and buried the bodies. After an exhaustive search around Chalk Hill, located east of Las Cruces, not a trace of the two bodies were found, and the main informant, Sam Ketchum, was now dead.

Who killed Col. Albert Fountain and his son? Was it Oliver Lee and his cattle rustling gang? Was it Albert Fall? Did hired guns Sam and Tom Ketchum pull the trigger? Or was it altogether somebody else? Where are their bodies? At this point, these questions are likely never to be answered - which makes the murders of Albert and Henry Fountain the most famous cold case in New Mexico history.

Case of the Missing Printer

A Socorro man we know only as J.C. Allsop was a printer for the Socorro Industrial Advertiser, a competing newspaper to the Socorro Chieftain in the 1890s. On Saturday, Feb. 12, 1895, Allsop had worked late to finish the current issue of the Advertiser. The office staff went home at the end of the day, which left Allsop in the press room still running the printing presses. He was never seen again. It was assumed he walked off the job and headed for greener pastures.

Four months later, on June 22, the Socorro Chieftain

reports a decomposed body had been found, apparently somewhere between the Plaza and the railroad tracks. The body was identified as that of J.C. Allsop based on personal effects found on the skeletal remains.

A coroner's jury was seated to review the evidence. They determined Allsop had been murdered sometime between Feb. 12-14, 1895, but not a clue surfaced to indicate who might have committed the crime. Both newspapers printed pleas for anyone to come forward with information on the murder. Rewards were offered by the Socorro Advertiser and the Sheriff's Department.

On June 26, New Mexico Gov. William Thornton offered a \$500 reward. The news reports at the time do not explain why Allsop's murder so quickly received the governor's attention. The governor's decree was published in the next several issues of the Socorro Chieftain, reading as follows:

"Whereas, J.C. Allsop was recently murdered in the county of Socorro by unknown parties who are now at large. Now therefore, for the purpose of obtaining the arrest and conviction of the parties committing said crime, I, W.T. Thornton, governor of the territory of New Mexico, do hereby offer a reward of \$500 for the arrest of each and every one of the parties committing said crime. ... Done at the executive office on this the 26th of June, A.D. 1895. (Signed) W.T. Thornton, Governor of New Mexico."

According to the Consumer Price Index inflation calculator, \$500 in 1895 would be \$11,839 today. This



Courtesy Socorro County Historical Society

The Bullion, the Advertiser, and the Chieftain were the main Socorro newspapers in the late 1800s. J. C. Allsop was a printer at the Socorro Advertiser when he was mysteriously murdered in 1895.

is a sizable reward, even at today's standards. However, it proved insufficient in luring anyone forward with information on the case.

Who murdered J.C. Allsop in 1895, or why for that matter, remains one of Socorro's cold cases. It is not known if the Socorro Police Department is still working on the case.

On Jan. 21, 1899, the Socorro Industrial Advertiser printed it's last issue; the Socorro Chieftain assumed the subscription list.

The Socorro Chieftain was established in 1884. At that time, the other English-language newspaper was the Socorro Sun, which began printing in 1880. The editor of the Sun, Anthony Conklin, was murdered on Christmas Eve 1880. The assumed murderer, Enofre Baca, was hung by the Socorro Vigilantes on March 30, 1881. The Socorro Sun ceased publication in 1884, shortly after the Socorro Chieftain was established.

Socorro has had two newspapermen murdered in her history. Although Conklin's murder was illegally avenged, the Allsop murder remains unsolved.

The George Gordon Case

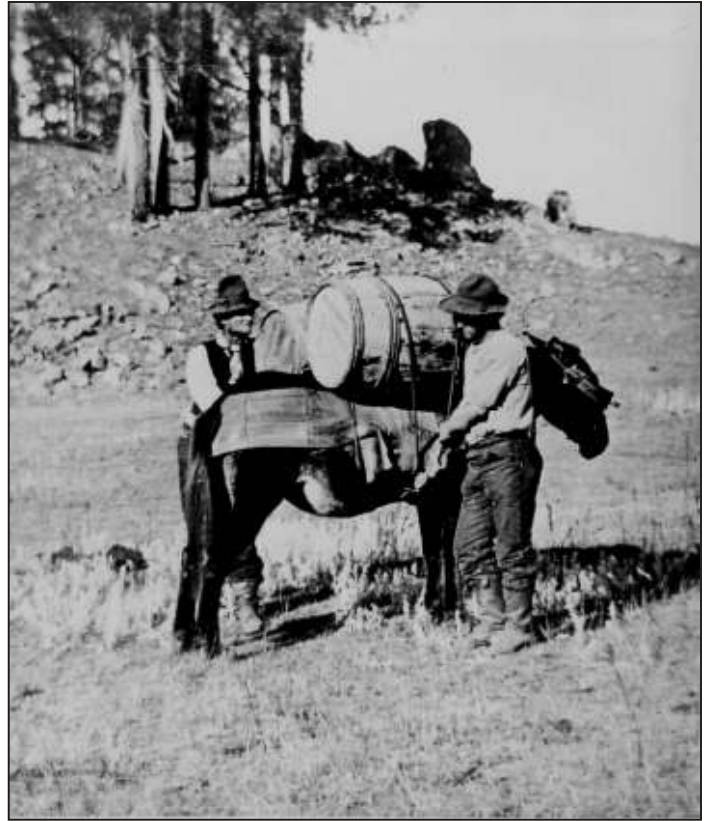
In November 1895, Socorro County Sheriff Holm Bursum received an express letter from Frisco (modern day Reserve). Deputy Sheriff Patrick Higgins, living near Aragon, informs Bursum that George Gordon, one of the respected citizens of western Socorro County, had been found murdered. The sheriff's presence was requested to investigate the case. (Reserve and Mogollon were part of Socorro County prior to 1921).

Sheriff Bursum's investigation showed that George Gordon left his ranch, about 18 miles south of Frisco, early in the morning. He was on his black mare with a

loaded pack animal on his way to Mogollon. About 3 miles from his home on the trail, he was shot in the chest. The shooter apparently waylaid him by hiding behind a cedar tree. From all the appearances, Gordon started back on the road for help when he was shot again — this time in the back. Gordon fell dead from his horse.



Courtesy Bursum family
Holm O. Bursum was the Socorro County Sheriff from 1894-1898.



Courtesy National Archives

The burro was the unsung hero of New Mexico, carrying upwards of 800 pounds along mountain trails. George Gordon was taking a pack mule loaded with supplies to Mogollon in 1895 when waylaid and killed on the trail.

Gordon's black mare was later found grazing about a mile away. It was branded with the letter "H" and the right ear was broken and bent forward. Friends and family positively identified the mare as Gordon's. The pack animal, loaded with supplies for Mogollon, was never found. It was assumed that whatever goods and money Gordon was taking to Mogollon was the object of the murderous attack.

Sheriff Bursum determined from the footprints and cartridges found at the scene that Gordon was murdered by a lone gunman.

The murder is reported in the Nov. 15, 1895, Socorro Chieftain, which added: "It is thought that the murderer and thief is in the Rio Grande Valley and all are requested to keep a sharp lookout for him and report his apprehension to Sheriff Bursum of this county." This statement seems to authorize a citizen's arrest.

No suspects or clues ever surfaced in the case, it being one of Bursum's few unsolved crimes while sheriff, and remains a cold case to this day.

In the original Socorro Chieftain article, it is reported

that "(Gordon's) body was found by Mr. Dillon of Luna Valley, who reported the discovery to J.P. Lowe, who in turn sent for (Deputy) Patric Higgins at Frisco to examine the body."

There might be something historically curious about this statement — that being the identity of "J.P. Lowe."

Could this have been nearby W-S Ranch hand Jim Lowe? Lowe worked as a cow hand on the W-S Ranch near Alma. Like many cow hands, they would work for a spell, disappear for a spell and return months or years later. This was the case with Jim Lowe, working now and again on the W-S during the 1890s.

After the Gordon murder, bills stolen in the famous Butch Cassidy train robbery in Wyoming (on which the movie "Butch Cassidy and the Sundance Kid" is based) turned up in Alma, N.M., in 1899. Shortly thereafter, Pinkerton Agency detective Frank Murray arrived in Alma and showed photographs of the famous train robbers to W-S Ranch manager William French.



Outlaw Butch Cassidy, a.k.a. W-S Ranch hand Jim Lowe.

When shown the photo of Butch Cassidy, French replied, "Yup. That's one of my ranch hands, Jim Lowe." French also identified the photo of outlaw "Kid Curry" Harvey Logan as W-S cowpoke Tom Capehart.

No sooner than the Pinkerton detective arrived in Alma did these two outlaw cowhands disappear from the W-S Ranch and were never seen in New Mexico again.

Was J.T. Lowe, who reported George Gordon's murder to Deputy Sheriff Higgins, actually outlaw Butch Cassidy? I have never seen this connection made in any documented source.

How many J. Lowe's could there possibly be in 1899 living near Alma? If so, Jim Lowe, in addition to being famous train robber and outlaw Butch Cassidy, was also once a Socorro County good Samaritan.

The Marvel Johnson Case

In the early 1880s, it seemed ranchers discovered western Socorro County. In 1881-1882, the famous W-S Ranch was established, headquartered at Alma. The

following year, Montegue Stevens and Edwin Upcher formed the S-U Ranch, running from the Plains of San Agustin well into Arizona. It was headquartered for a time between Aragon and Horse Springs. By the 1890s, more than 30,000 head of cattle grazed on the ranches in western Socorro County (now Catron County).

One of the first ranches at Alma was settled in 1879 by Ishom Holt. A couple of years later, another Alma ranch was homesteaded by Langford Johnson.

A year later, he married Ishom Holt's daughter, Allie, and on Jan. 13, 1883, their son, Marvel, was born.

Life in the small town of Alma definitely had it's dicey moments with the huge W-S and S-U Ranches nearby — especially in one of the town's bars after payday.

Such was the case on Feb. 9, 1896. The bar was packed with W-S Ranch cowboys in various stages of inebriation, or at least working on it. Outside was a handful of youngsters from the town playing in the street around sundown.

Some of the cowboys in the bar noticed the sounds of the children playing in the street. Someone yelled out at the kids to be quiet and go home. Apparently, the children weren't fazed by the drunks. A few more words were exchanged to intimidate the children, when someone in the bar fired his pistol out into the dark street to give them a good scare. Then another shot or two, or three.

When the bullets began to fly, the children scattered. All, except one. Twelve-year-old Marvel Johnson lay dead in the street, struck by an errant bullet. Ranch hand William Riley bolted from the bar, hopped on his horse and rode hard toward the W-S Ranch. Several days later



Courtesy Janice Hoy
Marvel Johnston's grave in the Alma cemetery.

he was arrested by Sheriff Holm Bursum for the murder of the child.

On May 29, trial began in the Socorro District Court. Riley claimed his innocence, stating several were shooting at the children with no way of knowing who fired the fatal bullet. Others testified that Riley was the only one seen actually firing a pistol. Riley countered that it must have ricocheted and therefore the child's death was an unfortunate accident.

It must have been a high profile case, as the Socorro Chieftain reports: "John J. Bell, one of the brightest lawyers of Southern New Mexico, is here from Silver City assisting District Attorney Dougherty in the prosecution of the Riley murder case."

The outcome of the trial was disappointing. The hung jury forced Riley to be acquitted of the murder charge.

The outcome was reported in the June 5, 1896, Socorro Chieftain: "Mr. and Mrs. Langford Johnson, who were here attending the Riley murder trial, returned to their home at Alma this week. It was their little twelve year old son Marvel who was murdered by Riley last winter. The jury disagreed in the Riley case. It is understood that the jury stood nine for conviction of murder in the first degree and three for acquittal. There is a great deal of indignation on part of the better class of people over this gross miscarriage of justice."

Even though Riley was acquitted of the murder, note how even the editor of the Chieftain still referred to him as "Marvel's murderer."

With Will Riley acquitted by the jury, presumably the real child killer was still on the loose, making it a cold case. Or, so it appeared.

In researching this story, I was fortunate to have located Janice Hoy, the great-granddaughter of Langford Johnson. She provided a wealth of information about the Johnson family, the murder of Marvel, and photographs. Of particular interest was receiving the court records from Will Riley's second trial for Marvel's murder about a year later. Searching the Socorro Chieftain, indeed, the second trial is reported.

It appears after Will Riley's acquittal, Sheriff Holm Bursum was fuming mad, as were many people throughout Socorro County. Discussing the matter with District Attorney Dougherty, a list of "errors" from the first trial were presented for a motion to seek a new trial. For example, it was pointed out that the court



Courtesy Janice Hoy

William Riley served three years in the New Mexico Territorial Penitentiary for murdering 12 year old Marvel Johnson.

erred with Matt Millitzer, claiming he should not have been sworn in as a witness and was "incompetent to testify in said cause, on account of (his) defective religious belief."

Another error was empanelling Benjamin Sanchez as foreman of the Grand Jury. Territorial law stated government agents can not serve as jurors. Sanchez had once served as Postmaster at Polvadera, therefore a "government agent," and the findings of the Grand Jury should thus be ruled invalid.

Both of these examples seems a long stretch in interpreting the law by any body's measure, but it was sufficient to grant a new trial.

The second trial was held a year later, in 1897. The jury was allowed to consider both first degree and second degree murder. The case was presented again, with the defense arguing heavily that Riley's extreme drunken state did not make him fully responsible for his actions. The prosecution countered that Riley acted "feloniously, willfully, with malice and aforethought, and upon a premeditated design then and there unlawfully and maliciously to effect, the death of him,

the said Marvil (sic) Johnson."

On this second trial, the jury found William Riley guilty of second degree murder. He was sentenced to six years in the Territorial Penitentiary in Santa Fe and was released after three years for good behavior.

Upon his release from prison, Riley returned to the W-S Ranch. It wasn't long before he was seen in Alma having a meal at a local restaurant. Langford Johnson, and several other citizens of Alma, approached Riley in the restaurant and politely explained to him Socorro County wasn't big enough for the both of them. Riley must have gotten the message, because he was never seen in the area again.

A year after the second trial, perhaps out of disgust with the whole affair, Langford and Allie Johnson moved their family from Alma to California, where Langford junior was born in 1900. Attending school in Selma, Calif., apparently the school teacher taught the Johnson children to spell their name with a "T." Thereafter, the family name was spelled Johnston.

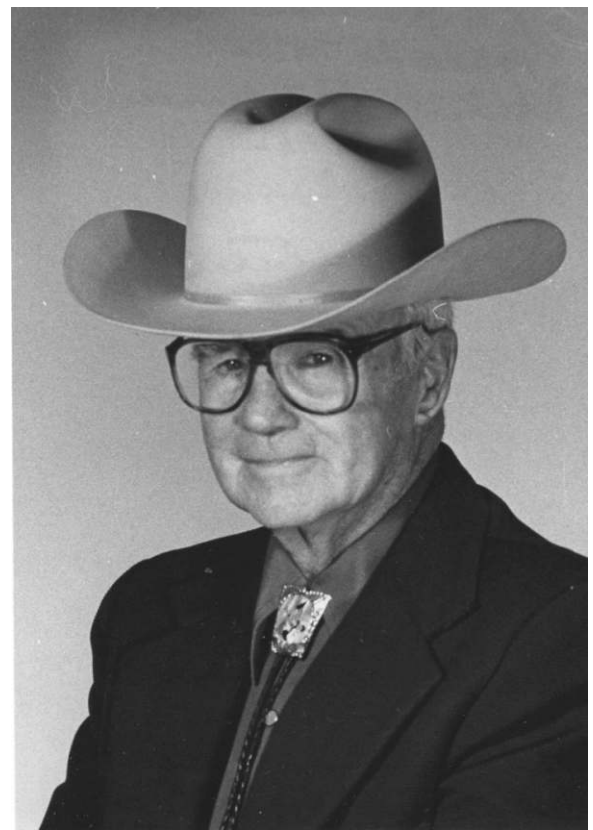
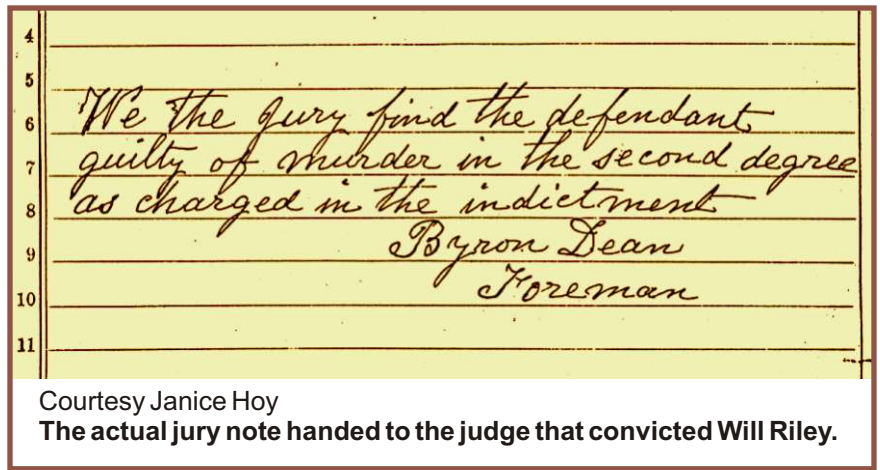
Langford Johnston Jr. returned to New Mexico, becoming a well-known rancher in the Magdalena area, and the author of numerous books and articles about the early pioneer and ranching days of New Mexico. He retired to Selma, Calif., where he died in 1998, at 98 years of age. Langford Johnston, and other early Socorro County ranching families, will be presented in future articles.

Although not legally a cold case, it would have been had not Sheriff Bursum, District Attorney Dougherty, the Johnson family and others persisted so valiantly to bring justice to the killing of an innocent boy by a drunken bully.

Next month (Part 2): more cold cases, including Socorro's current cold case crimes.

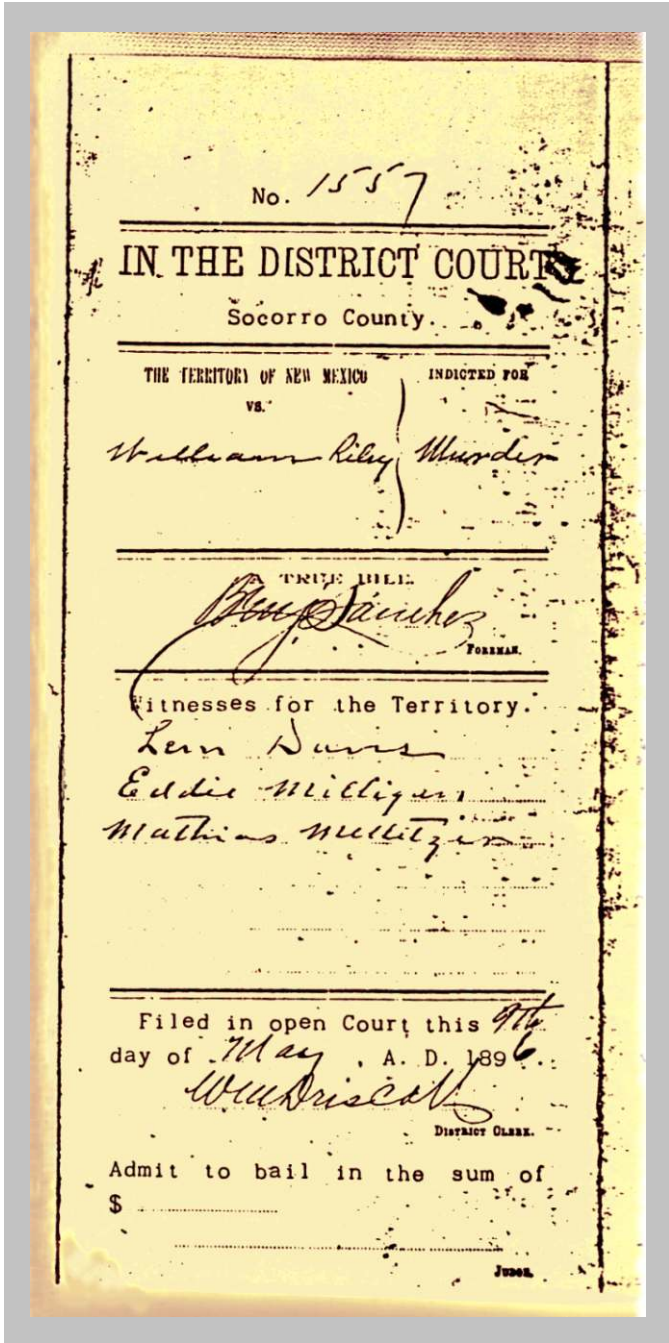
Some of the references used in this article:

Numerous issues of the Socorro Chieftain newspaper; "True Tales of the American Southwest," by Howard Bryan; "The Lowest Form of Murder," by Langford Johnston, Jr.; and numerous documentation and photographs from Janice Hoy (for which I am deeply indebted to - many thanks).

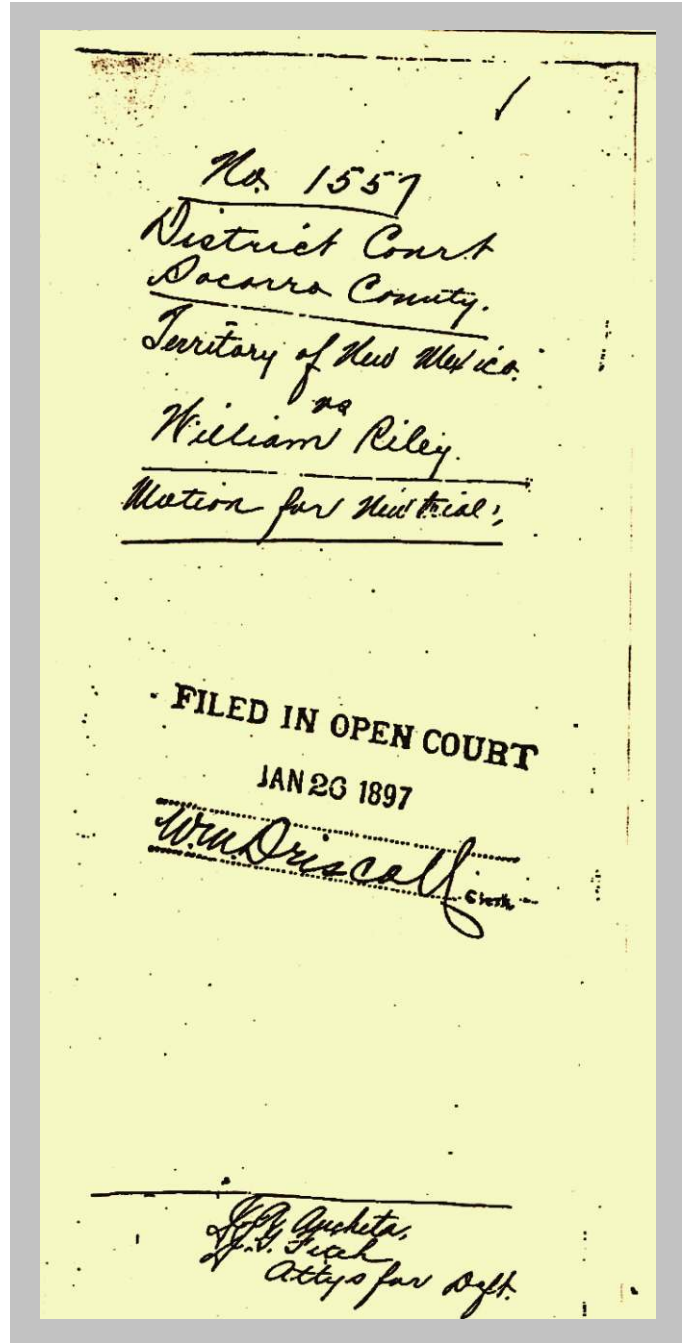


Courtesy Janice Hoy
Langford Johnston, Jr. was born four years after his little brother, Marvel, was killed in 1896.

Some historical documentation not published with the original article.



Courtesy Janice Hoy
The Case Cover for the first trial of the Territory of New Mexico vs. William Riley in May 1896. This trial resulted in a hung jury and Riley's acquittal.



Courtesy Janice Hoy
The "Motion for New Trial" filed Jan. 26, 1897. The second trial was held in February 1897. This trial resulted in a guilty verdict for 2nd degree murder and a sentence to the Territorial Penitentiary in Santa Fe. William Riley was released after three years for good behavior.

Does the handwritten Case Cover suggest the Socorro District Court was out of printed forms?

Some historical documentation not published with the original article.

No. 1057 ✓

DISTRICT COURT
County of Socorro

Secretary

William Riley

SUBPOENA.

FILED IN MY OFFICE
JUN 25 1896
W. A. Freeman
Clerk

Socorro Chieftain Print.

The Territory of New Mexico.

To Alice Johnston, Morris Day, Eddie Milligan,
Ches Crosby, M. Miletzer, Arthur Chilla,
C. Mc Crady, Archie Cosland, C. Baca.

Greeting:

We command you and each of you to be and appear May 27th 1896
before the District Court within and for the Fifth Judicial District of the
Territory of New Mexico, at the presently Term A. D. 1896, thereof at
the Court House, in the County of Socorro then and there to testify
in the case of Secretary versus William Riley
Secretary, on behalf of the Secretary

And this do ye, under penalty of the law.

WITNESS the Honorable A. A. Freeman, Associate
Justice of the Supreme Court of the Terri-
tory of New Mexico, and Judge of the Fifth
Judicial District Court thereof, and the
Seal of said District Court, this 12th
day of May A. D., 1896.

W. A. Freeman
Clerk of said District Court.

Courtesy Janice Hoy

The subpoena for the witnesses living in Mogollon for the May 1896 Will Riley murder trial of Marvel Johnson (first trial).

Territory of New Mexico,)
County of Socorro.) ss

The within writ came to hand on the 12th, day of May, A.D. 1896
and was served upon the within named Alice Johnson, Ches Crosby, on the
15th, and M. Miletzer, Arthur Chilla Archie Cosland on the 16th, and
Morris Day, C. McErady, and C. Baca on the 19th, of May, all at Mogollan
in the County and Territory aforesaid.

Fees.	
Serving writ,	\$9.00
Return,	.50
Total,	\$9.50

H. O. Bursum
Sheriff of Socorro County.

D. D. Freeborn
Deputy

Courtesy Janice Hoy

Sheriff Bursum's testimony that the above subpoena was delivered to the cited people, and his fees. The subpoena was actually served by Deputy Sheriff D. D. Freeborn.