

FLETCHER M. DOAN

FRANK W. DOAN

Doan and Doan
Mining and Corporation Law
Douglas, Arizona

321

February 6, 1914.

Mr. J. E. James,
Clerk, Superior Court,
Tombstone, Arizona.

Dear Sir:

In the case of the State of Arizona
versus John W. Richhart, please issue subpoenas
for the witnesses for the defense just as they were
issued at the last term of court. If you will send
us the subpoenas and let us know when the sheriff
intends to go to that section to serve the subpoenas
we may be able to add the names of some that we learn
hereafter and which we do not at this time have.

Truly yours,

FWD/S

Doan & Doan
attys for defndt.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
IN AND FOR THE COUNTY OF COCHISE.

State of Arizona,
Plaintiff,
-vs-
John W. Richhart,
Defendant.

MOTION.

Comes now the defendant herein and moves the court to postpone the trial of this case and continue the same to such reasonable time as will enable the defendant to procure the essential and material witnesses herein for the defense of this case.

This motion is based upon the affidavit filed herewith.

John W. Richhart
By Douglas Doane
Attorney

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA,
IN AND FOR THE COUNTY OF COCHISE.

State of Arizona,
Plaintiff,
-vs-
John W. Richhart,
Defendant.

A F F I D A V I T .

State of Arizona, }
County of Cochise. } ss

John W. Richhart, being duly sworn, deposes and says that he is the defendant herein. That he cannot safely go to trial herein on the date now set because of the fact that it is impossible at this time for him to produce the testimony that is material to his defense. The testimony of Henry D. Crockett is material to the defense herein and affiant has used due diligence to procure such testimony, he having had the regular subpoena issued herein and delivered to the officer for service herein, and the same has been returned stating that said Henry D. Crockett cannot be found. The testimony to be given by the said Henry D. Crockett cannot be obtained from any other source for the reason that it is the testimony of the said witness as to what he himself saw and heard at the time of the alleged offense. The name of the said witness is Henry D. Crockett and his residence is Apache, Arizona, but he may now be in Santa Cruz County, Arizona. Affiant expects to prove by said Crockett that E. J. Miller, the party killed, was the aggressor in the trouble which resulted in the death of said

Miller, and likewise, to prove by the said Crockett former difficulties and troubles occurring between the decedent and affiant and the offensive attitude of the said decedent relative thereto. That this continuance is not sought for delay only but that justice may be done and affiant is of the opinion that said Crockett can be obtained at a future hearing as he has property in this state and relatives herein, and affiant does not believe that he has left this locality permanently, and affiant is of the opinion that he can procure him at the trial herein at some subsequent and reasonable time.

Affiant states that the evidence of M. W. Eldridge, said to be in New Mexico near Apache, Arizona, is material to the defense herein, and affiant has been unable to procure the said witness herein at this time and will be unable to produce him at the trial of this case when set. Affiant has used due diligence to procure his testimony, having had a subpoena issued herein and delivered to the sheriff for service, but he is informed that service has not been made upon said witness. Affiant does not now know where the said witness may be and the evidence of said witness cannot be obtained from any other source, and affiant expects to prove by said Eldridge that the decedent, E. J. Miller, heretofore and before the offense in this case, assaulted affiant and threatened him with bodily injury. Said Eldridge can and will testify to the former difficulty between said Miller and affiant herein, wherein the said Miller was the aggressor.

Affiant believes that he can procure the attendance of the said Eldridge at a subsequent and reasonable time, that he may be a witness in this case.

That the witness Frank Burch will give testimony that is material to the defense herein and defendant has used diligence to procure the said witness, having had subpoena issued for him and delivered to the sheriff for service, and affiant is informed the same has not been served. The testimony of the said witness cannot be obtained from any other source. The residence of said witness is Apache, Arizona, but he is temporarily in San Diego, California. Affiant believes he will be able to prove by the said witness the fact that the decedent, E. J. Miller, had made threats against the life of affiant, and that witness had communicated those threats to affiant. Furthermore, the said witness Burch can testify to previous difficulties and troubles between the said Miller and affiant and can testify to the character of the said Miller as being quarrelsome and dangerous to such extent that it was necessary for the said witness to arm himself and for protection against the said Miller.

Affiant verily believes that he will be able to procure the attendance of the said witness Burch within a reasonable time as his home is in Arizona and he is only temporarily absent.

This affidavit is not made for delay and this continuance is not sought for delay only, but to the end that substantial justice may be done herein.

John W. Rickhart

Subscribed and sworn to before me this 26th day of February, 1914.

[Signature]
Notary Public.

My commission expires, May 16-1915