

Gas. C. Walker:

Dear Sir: Yours of the 14<sup>th</sup>

just recd. I had returned your draft of plea and did not make a copy.

It occurs to me that it might be well enough to ~~have~~ show practically, the strength of one of our subsequent objections by ~~alleging~~ denying that the defendant is "of the colored race", by ~~claiming~~ asserting & asserting that he has not more than one-eighth of colored blood. (which I suppose to be the fact?) ~~but admitting that I think~~ this the Dist. Ct. will probably deem to, holding it to be immaterial as it no doubt is under your state law but it is a question many as well take up, if for nothing else, to let the court sharpen its wits on.

If I remember rightly, the allegations in the plea as to the road, the ticket and the place of destination are sufficient.

I do not recall anything which needs to be added to the plea outside of the above suggestion — if that meets your approval,

James P. Walker Esq. Yours of 6<sup>th</sup> inst recd -

Dear Sir: If in anything that  
I have written, there has seemed the  
least indication of distrust or insinuation  
to override your judgment on any point,  
except the objection based on the title  
which necessitated would have necessi-  
tated the ~~appeal to the~~ delay of the state  
or further proceedings in the state  
court, please accept my assurance that  
no such thing was intended. I should  
be very angry if any man with whom  
I was associated in ~~business~~ conducting  
a case should manifest or feel  
any distrust of my earnestness or  
sincerity, and what I would demand  
of another I give most cheerfully. Aside  
from that, you are not so much a stran-  
ger to me as you may suppose  
and I never had any thought of disturbing  
you in any way. I think we shall enjoy

our association and come out of it better  
friends, at least knowing each other better.  
Let me say that I had no idea of in-  
volving the Interstate matter phase of the  
controversy. I simply did not formulate  
that ~~was~~ specifically, that is with reference  
to the ~~inter state~~ state, because I knew you  
were interested in it and I did not  
doubt could do it better than I. I  
did not mean the points I made  
should be deemed exclusive. Even if I  
had no confidence in the point, being a  
Federal question, I would certainly in-  
clude it. No doubt I ought to have  
made this plainer but you must  
establish in my favor an irrefutable  
presumption of common sense, rea-  
son and interested courtesy  
and read my letters in the light  
of them.

I am quite indifferent as to the form of the pleading, and see no good reason why, if the District Attorney will agree upon the facts, you should not move for a verdict or judgment of acquittal, setting forth the grounds of objection fully and have them overruled.

This is the simplest and it strikes me the best way if the Dist. Atty is inclined to agree upon the facts. In such case, it strikes me as well to have the statute on which the indictment is brought distinctly specified as a fact. There in the application to the Circuit Court set out the statute in terminis verbis.

You wonder why I am so anxious to have the statute set out. I got my fingers pinched by a prescription in the Supreme Court once for failure to plead the statute in terms. This is a short one and it is cheaper to plead it than to waive it.

It seems to me desirable in case of agreement to facts as above set forth, that

you should file your objections in writing in the court before judgment. And I should prefer a judgment of guilty on the facts agreed, after objections overruled, to a judgment on demurrer on plea to jurisdiction, if I understood the latter.

This avoids the point on why *Ex parte Royall* went off. (117 U.S. R. 745), namely, that the Circuit Court has discretion as to Habeas Corpus writ's judgment rendered by the State Court on the Constitutional questions set forth in the petition. In that case, Royall was in custody awaiting ~~the~~ trial. The Circuit Court denied the application for want of jurisdiction. The <sup>sup.</sup> Court said they had jurisdiction but it was at their discretion whether they would exercise it before trial. On a general verdict without specific

at all  
overruling of the grounds of objection, in  
a custom to Simms, or something of  
that sort. I fear the court might say  
that these points had not been ruled  
by the state court.

I don't think we disagree at all  
on our views but do not always  
see what the other thinks -

Sincerely Yours  
William D. Stovenger

March 11/1892