

**A. W. McCarty of 78th Ohio
Court Martialed for Rape**

**One of Few Such Incidents to Spoil Reputation
of Sherman's Splendid Army on March to Sea
& Carolina Campaign**

**Southern Claims of Wide-Spread Rape &
Vandalism Wildly Exaggerated**

Herein is submitted the official transcripts of this outrageous affair, which will forever taint the otherwise glorious record of the 78th

Head Quarters 3 Brig 1st Div 17th A. C. near Fayetteville March 13th 1865.

Capt.

Several men from my command report to me that in the 6th unit at or near Bennettsville they detected Lieut. McCarty of the 78th Ohio. {Not legible} attempting to forcibly violate the person of a white woman — I request that the matter be investigated etc.,

O.A.G. 17th [Army Corps]

Respectfully,

John {last name not legible}

C of {not legible} Ill Infy

Com of 3rd Brg

Head Quarters 17th Army Corps

Goldsboro N. C., April 3, 1865

Special Orders

No. 85

A General Court Martial is hereby convened to meet in the town of Goldsboro, on Tuesday April 4th 1865 or as soon thereafter as practicable for the trial of 1st Sergt. Arthur W. McCarty, Co. "E" 78th Ohio Vols and such other causes as may come before them.

Detail for the Court

Col. M. Montgomery	25 th Wis. Vols.
Col. Geo. C. Rogers	14 th and 15 th Ills. Batt.
Maj. T. P. Marshall	13 th Iowa Vols.
Maj. P. H. McCauley	17 th Wis. Vols.
Capt. J. M. Reid	15 th Iowa Vols.
Lieut. H. M. Towne	Co. "I" 1 st Mich. Arty.
Capt. O. W. Pollock	63 rd Ohio Vols. Judge Advocate

No other officers than those named can be assembled without manifest injury to the service.

By Command of
Maj. Gen. F. P. Blair,
() C. Cadle Jr.
Assit. Adjt. Gen.

Official
O. P. Kimmay
Asst Adjt. Genl.

Third page was not legible. I can make out what appears to be the name Edgar Miller, but am none too sure about that.

Proceedings of a General Court martial convened at Raleigh N. C. in compliance with the following Order.

Head Quarters 17th A. C.
Department of the Tennessee
Goldsboro N. C. April 3rd 1865
Special Orders
No. 85

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Detail for the Court
Col M. Montgomery
Col Geo. C. Rogers
Maj T. P. Marshal

25th Wis. Vols.
14th and 15th Ills. Batt.
13th Iowa Vols.

Maj P. H. McCauley
Capt J. M. Reid
Lieut H. M. Towne
Capt O. W. Pollock

17th Wis. Vols.
15th Iowa Vols.
Co. "I" 1st Mich Arty
63rd O.V.I. Judge Advocate

No other Officers than those named can be assembled without manifest injury to the service.

By Command of
Maj Gen F. P. Blair
C. Cadle Jr
A. A. Genl

Proceedings of a general Court Martial convened at Goldsboro N.C. by virtue of the following order.
Head Quarters 17th Army Corps
Goldsboro N.C. April 3rd 1865
Special Order No. 85

A General Court Martial is hereby convened to meet in the town of Goldsboro on Tuesday April 4th 1865
or as soon thereafter as practicable for the trial of 1st Sergeant Arthur W. McCarty Co "E" 78th Ohio ____
Vols Infantry, and such other cases as may come before it.

Detail for the Court
Col M Montgomery
Col George C Rogers
Maj T P Marshal
Maj P. H. McCauley
Capt J. M. Reid
Lieut H. Towne
Capt O. W. Pollock

25th Wis Vols
14th and 15th Ills Batt
13th Iowa Vols
17th Wis. Vols
15th Iowa Vols
Co. "I" 1st Mich Arty
63rd Ohio Judge Advocate

No other Officers than those named can be assembled without manifest injury to the Service.

By Command of
Maj Gen F. P. Blair
C. Cadle Jr
A. A. G. 17th A.C.

Goldsboro N.C., April 6th, 1865
9 O'Clock A.M.
The Court met pursuant to the above order.

Present
Co. M. Montgomery
Maj. G. P. Marshal
Maj. P. H. McCauley

25th Wis. Vols.
13th Iowa Vols.
17th Wis. Vols.

Capt. J. M. Reid
Lieut H. M. Towne
Capt. O. W. Pollock

15th Iowa Vols.
Co. "I" 1st Mich. Arty.
63rd Ohio Judge Advocate

Head Quarters 17th Army Corps.
Department of the Tennessee
Goldsboro N. C., April 4th, 1865.

Special Order
No. 86

Col. George C. Rogers, 14th and 15th Ills. Vol. Batt is hereby relieved from duty on General Court Martial now in session convened by S.O. 85 ___ XII of date April 3rd 1865.

By command of
Maj. Genl. F. P. Blair
C. Cadle Jr.
AAG 17th AC

The court then proceeded to the trial of Private Henry Quinn Co. E 78th Ohio Vol Infy who was called into court and having heard the order concerning the court read was asked if he had any objection to any member named in the order. To this he replied in the negative. The court and Judge Advocate were then duly sworn in the presence of the prisoner. The Prisoner Private Henry Quinn Co "E" 78th Ohio Vol Infy. was arraigned on the following charge and specification. Charge and Specification against Henry Quinn, Private Co "E" 78th Ohio Vol. Infantry. Charge: Assault with intent to kill. Specification; In this that the said Private Henry Quinn

Head-Quarters, Seventeenth Army Corps,
Department of the Tennessee,
___ Alexandria, Va. May 22nd 1865

Capt. S. O. Taggart
A. A. G. Army of Tenn.
Captain

I have the honor to forward herewith the proceedings of a General Court Martial in the cases of Sergt. A. W. McCarty "E" Co. 78th Ohio Vols., Private Henry Quinn "E" Co. 78th Ohio Vols., Sergt. O. H. P. Ewing "B" Co. 34th Ohio Vols. Private Henry Woltz "D" Co., 24th Ohio Vols., Corporal A. C. H. Warner "B" Co. 9th Ills. ___ Infy, with the copy of the orders in the several cases.

Very Respectfully,
Your Obdt. Servant
M_____ M_____
Major General

Received the following communication from Capt C Cadle A.A.G 17th A.C.

Capt Pollock

Col Rogers went to Morehead City last night to bring up some men of his Regt on orders. I will relieve him. You will have to "work" without him.

Respfly

C Cadle Jr

A.A. G

The Court then proceeded to the trial of Sergt Arthur W. McCarty Co "E" 78th Ohio Vet Vol Infty who was called into court and having heard the order convening the court read was asked if he had any objection to any member named in the order. To this he replied in the negative.

The court and Judge Advocate were then duly sworn in the presence of the prisoner. The prisoner 1st Sergeant Arthur W. McCarty Co E 78th Ohio Vet Vol Infty. Was arraigned on the following charge and specification.

Charge and Specification against 1st Sergeant Arthur W. McCarty Co "E" 78th Ohio Vet(?) Vol Infty.

Charge — Rape

Specification. In this that he 1st Sergt Arthur W. McCarty Co "E" 78th Ohio Vet Vol Infantry did commit rape on the person of Miss Martha Clowell in the house of her father Mr. James Clowell.

All this at or near Bennettsville S.C. on or about the sixth (6th)day of March 1865.

Edgar P. Miller

Capt. 18th Iowa Infty Vet Vol

And Asst Provost Marshall 17th A C

To which charge and specification the prisoner pleaded as follows.

To the specification of the charge Not Guilty

To the charge Not Guilty

Private William S. Walker Co A 10th Ills Infantry witness for the prosecution being duly sworn testifies as follows:

Question JA: What is your name and rank in the Army

Answer: William S. Walker. Private Co "A" 10th Ills Infantry

Question JA: Do you know the prisoner

Answer: I know him when I see him

Question: Did you see the prisoner on or about the 6th day of March 1865 and where

Answer: I did. About one mile from Bennettsville.

Question JA: Will you state all you know with reference to the prisoner having committed rape upon a woman in the vicinity of Bennettsville.

Answer: When we came into camp five of us started from camp foraging. Stuck to the right of the road. We had gone about three hundred yards (300) through the woods. We saw a house one hundred and fifty (150) or two hundred (200) yards from where we were. We started towards it. We saw a horse tied to the fence not knowing whose it was we singled out in sort of a line. Came up to the house. Three men went to one door and one went to the other side. When we came within about six yards of the house, we heard screaming and crying. Two of men were about two paces ahead of me. One of them passed into the large room. The other stopped at the door leading into a little room. I stepped to the man's side who was looking into the little room and I saw this man McCarty on the woman. She was crying and appeared to be very much frightened. By the time one of the other men came up and passed into the room as he came into the room he stopped just inside of the, McCarty rose up and buttoning up his pants remarked to the last man if he wanted any F. . . There was an easy going thing. To pitch in. He told him we did not and asked if he had any Whiskey. He said that he had some in his saddle bags and went to the saddle bags and there was some there. As we went out of the door for the whisky, this woman who been crying all the time went into the sitting room and when he found no whiskey in his saddle bags he said that he had left the bottle in the room, they went into the room where he said he had left the whiskey. We started onto get some forage. The man that went in with McCarty came up. We had stopped. We went back and called to the man (the father) to come out. The family appeared greatly frightened and all commenced crying. We told them we were not going to hurt the man. He came to the door. We went round the house and saw McCarty untying his horse to go. We stopped him and told him he was under arrest. He wanted to know what for. We told him. He said that he paid the woman, not knowing whether he paid her or not we released him. We started foraging then. He asked us what regt. we belonged to. We told him. We asked him what regt. he belonged to he said the 20th Ohio. One of the boys asked him for some whiskey and he said there was plenty in Chiraw(?) at Genl Blairs Head Quarters. He left us then.

Question JA: When you first saw the prisoner have the woman down what did she seem to be trying to do.

Answer: She was crying and seemed to be trying to get up. She was so frightened that she was quite weak.

Question JA: What was she laying on when you first saw them.

Answer: Sacks of corn.

Question JA: What did she do when the prisoner got off of her.

Answer: She put down her clothes.

Question JA: What was this woman's name

Answer: I do not know

Question JA: What was the man's name at whose house this happened

Answer: I do not know

Question by court: About what age did this woman appear to be

Answer: Between seventeen and nineteen

Question by court: About how far were you from the house when you first heard the crying.

Answer: I should think about six yards

Question by court: What was the exact position of the two when you first saw them

Answer: The woman was in a half lying position. The man was on his knees between the woman's legs.

Question by court: When you first heard the noise was the woman so situated that you could have been seen by her.

Answer: No Sir.

Question by the court: Did you advance up to the house quietly or did you make a noise.

Answer: We advanced quietly. There was nothing said except in a whisper.

Question by the Court: When you saw them did either have hold of the other

Answer: I could not see his hands. She did not have hold of him.

Question by prisoner: What was I liberated after being arrested

Answer: For two reasons. One was that he said he gave her money. The other was, we were foraging and had other business.

Question by prisoner. Was there not considerable noise made when you entered on the porch.

Answer: Not more than we made {not legible} men stepping up on the porch.

Corporal Wm F Crawley Co A 10th Ills Vet Vol Infty. Witness for the prosecution being duly sworn testifies as follows.

Question by JA: What is your name and rank in the Army

Answer: Wm F Crawley Corporal Co A 10th Ills Vet Vol Infty

Question by JA: Do you know the prisoner

Answer: I know him by sight

Question by JA: Did you see the prisoner on or about the 6th day of March 1865 and if so where

Answer: I saw the prisoner in the afternoon about a fourth of a mile from the camp of the 3rd Brigade. I think it was about a mile from Bennettsville.

Question by JA: State all you know about the prisoner having committed a rape on a woman in that vicinity.

Answer: What I saw was, there was four of us started out foraging and came to this house in the woods and seen a horse tied to the fence. We thought there was probably a rebel in the house and three of us went up to the right-hand corner and the other went to the left-hand door. And we three stepped up onto the porch. One man was in the advance of me. He stepped right into the door of the house where the family were and I stopped in front of another door in a little room. I saw the prisoner with a woman on some sacks and she rose at the same time crying for her mother. He did not get up immediately when we stepped up on the porch, as soon as the other man came through the house he got up. He then started to come out of the room and spoke to this man and wanted to know if he wanted any. He told him no. And the prisoner said if you do it is an easy going thing. The girl then got up and went in to her father and mother. While we were standing on the porch, we started off foraging then.

Question from JA: Do you know anything about the business of being arrested by any member of your party.

Answer: They were talking about it but he was not arrested to my knowledge.

Question by JA: What was the man's name at whose house this thing occurred.

Answer: I do not know

Question by JA: What position were the prisoner and the woman in when you first saw them.

Answer: The woman was on some sacks that appeared like corn. He had her pushed on it like and he was on his knees on the floor.

Question by JA: What did she seem to be trying to do when you first saw them.

Answer: She seemed to be trying to get up as she was partly raised up.

Question by court: Was her naked person exposed.

Answer: Yes. I could see her legs. He was in between her legs and had her clothes up.

Question by court: Was there anything in her appearance that denoted that violence had been used

Answer: Nothing only from her crying and calling for her mother

Question by Court: In what position were their arms at the time

Answer: I do not know but think that the prisoner had his arms around her

Question by court: Did you hear any crying before entering the house

Answer: I did not until we got on the porch

Question by court: What remarks did the prisoner make to you at the time

Answer: He said it was an easy going thing if you wanted any Just go right at it.

Private Robert Eaton "Co A 10th Ills Infty Witness for the prosecution being duly sworn testifies as follows.

Question by JA: What is your name and rank in the Army

Answer: Robert Eaton Private Co A 10th Ills Infty

Question by JA: Do you know the prisoner

Answer: I know him by sight

Question by JA: Did you see the prisoner on or about the 6th day of March 1865 if so where

Answer: I did. Near Bennettsville.

Question by JA: State all you know about he prisoner having committed rape on a woman in that vicinity.

Answer: We started out from camp foraging. We gad gone between 1/4 and 1/2 mile when we came to a small opening in the woods where there was a small house. Saw a horse hitched with a citizen saddle on, we supposed it likely belonged to a rebel. We then surrounded the house. I rushed in the house and asked the old gentlemen where the man was that rode the horse. He and his wife were crying and pointed to the room where the prisoner was. I went to the door and saw him on top of the girl. He had her down on some sacks of corn. She was crying and trying to get up from him.

Question by JA: What was the name of the man at whose house this occurred.

Answer: I did not know his name

Question by JA: About what age would you think the girl was

Answer: I should think seventeen or eighteen

Question by JA: Did the prisoner get up off the girl as soon as you came to the door

Answer: Yes Sir

The prosecution was here closed.

Corporal Jacob S Mattson Co B 78th Ohio Infty witness for the defense being duly sworn testifies as follows:

Question by JA: What is your name and rank in the army

Answer: Jacob S. Mattson Corporal Co B 78th Ohio Infantry

Question JA: Where you with the prisoner on or about the 6th day of March 1865

Answer: I was

Question by JA: State all that you know about what happened after entering Bennettsville on that day at a house in the vicinity occupied by Mr. Clowell and family.

Answer: Sergeant McCarty and I came into town together, there we were talking to a boy about twelve years old, we asked who lived out in the country on that road, pointing to the road that our Head Quarters were on that night. He said a family lived out there by the name of Clowell. We also asked him if there was any forage out there. He said he did not know whether there was or not but said he; There is a girl out there that can give you all you want. I said, give us what. You know I don't like to tell, we got on our horses and rode out the road, until we came to a white house on the left hand side. There Sergeant McCarty stopped. I went on the Clowell's house and after talking to the family a while and found out how the thing was. She and I went into a room on the porch. I found the thing was all right and I gave her one dollar in green backs. Then I had connection with the girl and got on my horse and started back to camp. On the road back I met Sergeant McCarty between Clowells and the white house on the left-hand side. He asked me how the thing was and I told him it was all right. He went on to the house. I went into camp that was all that I saw of him that day.

Question by JA: Who is Sergeant McCarty.

Answer: He is a member of our company.

Question by JA: Do you mean the prisoner when you say Sergeant McCarty

Answer: I do

Question: What was the young girl's name you gave the dollar to at Clowells

Answer: Martha, she said

The prisoner requested permission to call another witness. The court granted the request, but the witness could not be procured in time for to days session. The court adjourned at 1 oclock P M to meet again at 9. Oclock A M tomorrow the 6th inst.

Second Day

Goldsboro NC April 6th 1865

9. Oclock A.M.

Court met pursuant to adjournment

Present

Col M Montgomery

Maj T P Marshal

Maj P H McCauley

Capt J M Reid

Lieut H M Towne

Capt O W Pollock

Col George C Rogers still absent at Morehead City.

25th Wis Vols

13th Iowa Vols

17th Wis Vols

15th Iowa Vols

Co "I" 1st Mich Arty

63rd Ohio Judge Advocate

Proceedings, findings and sentence approved. So much of the sentences, however, as relates to his confinement "in such state Prison as the proper authority may direct for the term of two (2) years," is hereby remitted.

That part of the sentence which directs that he "be drummed out of his regiment in the presence of the brigade to which his regiment is attached" will be carried into effect by the commanding General of the 3rd (?) Brigade, 3rd Div., 17 Army Corps, and Major J C Marrow, Provost Marshal 17 A.C. will deliver the prisoner to him for that purpose.

The commanding officer 78th Ohio Vols. will cause the proper remarks to be made on the muster and pay rolls to carry the balance of the sentence into effect.

By command of

Major General F. P. Blair

C Cadle Jr.

Asst. Adjt. Genl.

The final page is the legal "jacket", which appears to say:

Proceedings of a General Court Martial in the case of Arthur W. McCarty E Co. 78th Ohio Vols.

Other writing thereon cannot be read.

It is date stamped by the recording office Judge Advocate Gen'ls Office Jun 5 1866.

It's interesting to see how this was later "covered up" in his official service and pension records.

[Service & Pension Records](#)

Also, it appears that his conviction was later set aside due to some "administrative action." Here is an e-mail and some additional records showing that Pres. Andrew Johnson took personal action in reversing the decision of the Court Martial. I received this material from Brad Lepper of the Ohio Historical Society. Brad is a descendant of W. W. McCarty and is familiar with the history of this particular family and the Buckeye state's role in the Great Rebellion. I can't resist an editorial comment at this point about Pres. Johnson. In his autobiography, Frederick Douglass, the black abolitionist, contrasts his meetings with Lincoln with his personal experience with Johnson. In short, he says that it became clear during his several meetings with Lincoln that he was a kind and compassionate man who viewed him as person with rights; whereas, it only took one glance to tell that Johnson hated him for his color and was not to be trusted. Perhaps, then, it should not come as a surprise that this man would pardon a soldier whom all the evidence seems to indicate "earned" his guilty verdict.

[Lepper Letter and Information on Exoneration](#)