

# Michael J. Malone Douglas County Law Library E-Mail Newsletter



Vol. 12, No. 1; January 2015

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### Meeting and Event Announcements

The Defense Bar meets the second Friday of the month. This month the meeting is on the 9th.

The January Douglas County Bar Association Brown Bag CLE program will be on Thursday, January 15, from 12:00 p.m. to 12:50 p.m. in the Jury Assembly Room in the Judicial and Law Enforcement Center. The Honorable Kay Huff, the Honorable Sally Pokorny, and Mary Kay Howe, C.S.R. will present *Practice Tips from the Front of the Courtroom*. One hour of CLE credit is pending approval. Handout material can be downloaded from the [DCBA website](#).

### The Honorable James R. McCabria Joins Law Library Board

With his swearing in on December 8, 2014, as judge in Division IV of the Seventh Judicial District of Kansas, the Honorable James R. McCabria also becomes a member of the Michael J. Malone Douglas County Law Library Board of Trustees. The Editor would like to formally welcome Judge McCabria to the Library Board.

### 2015 Law Library Registration Fee Due By January 15th

The 2015 Law Library Registration Fee for attorneys required\* to register with the Law

Library is due in the Law Library no later than 5:00 p.m., January 15, 2015. It is also time for attorneys who do not have to register and pay the fee, but do so anyway to have access to a Library key, to renew their annual registration and pay their fee.

A 2015 Law Library Registration Renewal Form/Invoice was e-mailed to all attorneys for whom the Library had an e-mail address. If you need it re-sent, please contact the Library. The form is also available in fillable PDF format on the Law Library's website by clicking [here](#).

If you have not already paid your 2015 fee, please fill out, print, sign, and date the form, and, along with your 2015 fee payment of \$25.00 made out to the Michael J. Malone Douglas County Law Library, get it to the Law Library no later than January 15th.

\* K.S.A. 20-3126(e) states: "For the purposes of this section, an attorney shall be required to be registered in the county: (1) Where the attorney's principal office is located, if such attorney is a resident of Kansas or a resident of another state; or (2) where the attorney resides, if such attorney's principal office is located in another state. The principal office shall be the principal office of the attorney and not the principal office of such attorney's firm."

### **Legal Research CLEs in Law Library**

As reported in last month's newsletter, a representative from Thomson West will be in the Law Library on Friday, February 6, 2015, to offer free CLEs on performing legal research using WestlawNext. Research Specialist Laurie Minchew will conduct one-hour CLEs from 10:00 a.m. to 11:00 a.m., from 11:00 a.m. to noon, and from 1:00 p.m. to 2:00 p.m. that day. One pre-approved hour of Kansas CLE credit will be available for attending a session. The three sessions

cover the same material so are duplicates of each other.

Seating is limited, so preregistration is required. See Library staff to sign up for a session.

### **Current Art Gallery Exhibition**

The December 2014/January 2015 Law Library and Division III art gallery exhibitions are photography by Tony Peterson.

The exhibitions will run through the end of January 2015.

The February/March 2015 exhibitions in the Michael J. Malone Douglas County Law Library Art Gallery and the Division III Art Gallery are scheduled to be paintings by Mary Jane Grinter. More information on these exhibitions will be in the February 2015 E-Mail Newsletter.

For more information on past, current, and future Art Gallery exhibitions, or for more information on the Art Galleries, please consult the Art Gallery page on the Law Library's website.

If you would like to exhibit your art in our galleries, or know of local artists who would like to show their original art here, contact the Law Library at 838-2477 or by e-mail at [info@douglascolawlibrary.org](mailto:info@douglascolawlibrary.org).

### **New Acquisitions**

Newly acquired material added to the Law Library's holdings:

AALL Spectrum, v. 19:3 (Dec. 2014).

ABA Child Law Practice: Helping Lawyers Help Kids, v. 33:10 (Oct. 2014).

## **Did You Know?**

Every month, a bit of Law Library trivia is posted in the Law Library and on the Law Library's website. The previous month's "Did You Know" tidbit is then published here in the Newsletter. The hope is for this to improve communication between the Law Library and its users.

December's entry was:

The Law Library welcomes inquiries from individuals interested in volunteering there.

### **This Month In Legal History**

January 15, 1897 - Fred Chism is taken from a farm near Lecompton, Kansas, leading to worries that he would be lynched in Missouri.

Fredrick Douglas Chism<sup>1</sup> was born on November 29, 1866, in Versailles, Morgan County, Missouri, to General and Ann Chism. Considering when and where he was born, there is the strong possibility that both General and Ann had formerly been slaves. Fred, as he was known, grew up on a farm with his parents' in Morgan County. He became acquainted with Rachel Thouvenel<sup>2</sup>, who had been born on October 16, 1878, in Benton County, the county directly west of Morgan County. Rachel, known as Rose or Rosa, was the daughter of Charles Nicolas Thouvenel, a Benton County farmer who had been born in Thiebaumenil, Meurthe et Moselle, France, and who had come to Benton County with his parent's when they immigrated to the United States. Although there was a twelve year difference in their ages, a relationship developed between Fred and Rose. She was later reported to have said "she had wanted to marry him ever since she was old enough." On November 10, 1895, the two ran off together. Rose's father took great offense at this and reported to the local authorities that

Chism had abducted his 16-year old daughter. Complicating the whole matter was the fact that Chism was black and the Tourvenels were white. Fred and Rose made their way to Lawrence, Kansas. Why they went there is not known, but perhaps the reason was that forty years earlier, the town had been the headquarters of the Free State movement to bring Kansas into the Union as a state that did not allow slavery, and the two thought that their relationship would be accepted there. They had likely come to Lawrence by way of Sedalia, Missouri, as it was reported that Rose's father was looking for them there. Within a few days after their arrival in Lawrence, Chism went to work as a cook at the Central Hotel in town and Rose gave birth to a baby. On November 20th, Douglas County Sheriff Bud Hindman received a telegram from George W. Laird, the Sheriff of Bates County, asking him to arrest Chism on a charge of kidnapping, and offered him a reward from Rose's father for doing so. Hindman showed the note to Lawrence Police officer Sam Jeans, who told him that Chism was indeed in town. Hindman, Jean, and James H. Monroe, another police officer, arrested Chism around 7:00 p.m. that evening. Chism expressed fear for his life if he was sent back to Missouri. Rose was also put in jail. On reporting the incident, a newspaper article titled "Miscegenation" described Chism as "a burley fellow and no one ever would suspect that he could win the affections of a white girl." Rose was described as "simple", and that "She certainly could not be called bright." Although they had previously told people that they were married, the following day Chism requested of the Sheriff that they be allowed to get a license and get married. Without notice to anyone, Chism was then taken out of the jail and driven the fourteen or so miles to Lecompton, Kansas, put on a train and taken to Topeka, where he was held in the Shawnee County Jail for some hours in the custody of Sheriff D.N. Burge.

Meanwhile, Francis M. McHale, a local Lawrence attorney, was in the process of preparing the paperwork of a writ of habeas corpus for Chism. When he went to the jail to get the prisoner to sign it, he found he was not there. Apparently, Sheriff Hindman had moved Chism to avoid the possibility of such a thing occurring. The *Lawrence Daily World* printed a short article on November 23rd, poking fun at both McHale and Hindman that read "Frank McHale lost \$20 by having Chism taken away[,] but if Mc had got him out of trouble the sheriff would have lost \$100." Chism was transferred from Topeka to Ottawa, county seat of Franklin County, Kansas, and put in the custody of Sheriff J.A. Elwell there. An unsubstantiated report surfaced that Chism's brother had been killed for helping the couple run off by rowing them across the river, and this added to a growing concern in the black communities in Lawrence and Topeka for Chism's fate if he was taken back to Missouri. Sheriff Laird had come to Topeka, asking Kansas Governor Edmund N. Morrill to honor his requisition papers for custody of Chism. There had been a protest by members of the black community against sending him back, and the governor met with a delegation of them and Sheriff Laird to review the matter. One of the items considered was a telegram, purportedly from Benton County, indicating that 400 people had assembled in Warsaw, Missouri, the county seat of Benton County, to meet Laird on his return, with the avowed purpose of lynching Chism. On the 25th, a writ of habeas corpus was directed to Sheriff Elwell in Franklin County, but he replied that no such person was or had been in his custody. It is not known if this was before Chism had arrived in Ottawa, and therefore the sheriff was being truthful, or if he was there at the time, and the sheriff was not being truthful. A lawyer from Topeka came to Lawrence proposing to "make a hard fight" for Chism once he was able to get an action on the case, and Rose, who had been

released from jail in Lawrence, had traveled to Topeka to protest sending her lover and the father of her child back to where, in her judgment, he would be killed. On the morning of the 26th, Governor Morrill refused to issue the requisition from Sheriff Laird because he found the certificate accompanying it was irregular. Sheriff Laird went back to Missouri to get it corrected. The newspaper observed that twice before in the history of Kansas, requisition papers had been refused "...when it was shown that to take the accused back to the southern states meant simply death." On the Morning of the 27th, a writ of habeas corpus was issued from the District Court to Sheriff Hindman for him to bring Chism to court on Friday the 29th. The Sheriff was out of the county summoning witnesses on another case, and supposedly did not know about the furor that was happening over Chism. A writ was also issued to Sheriff Laird from Benton County, who had returned to Topeka, but he said he did not have Chism in his custody. However, he expected to have the proper requisition papers by the time the writ could be heard in Douglas County, and he planned to press for Chism's rearrest if he were to be released. If he was rearrested, Chism's supporters planned to file a writ with the Kansas Supreme Court. The newspaper noted "A desperate fight will be made for the purpose of preventing the return of Chism to Missouri. The colored people contend that they are not fighting to defend a man charged with a crime but to prevent his lynching." It went on to report that "eastern newspapers have numerous dispatches from Missouri stating that Chism is surely to be killed if brought back to Missouri and this has wrought up the colored people." On the morning of November 28th, Sheriff Hindman returned Chism to Lawrence "from the south," presumably from the Franklin County Jail in Ottawa. The habeas corpus proceedings took place in Lawrence on the morning of the 29th before Judge Alfred W.

Benson. It was determined that Sheriff Hindman did not have a warrant for the arrest of Chism, but had arrested him on word from Benton County that he was wanted for a crime committed there. Judge Benson immediately ordered Chism's release from custody. Sheriff Elwell of Franklin County requested the arrest of Chism, and immediately after that, a new habeas corpus writ was filed, to be considered that afternoon. While this was going on, Chism and Rose went across the hall to the office of Probate Judge John Q.A. Norton. Judge Norton issued a marriage license to the couple, and they were married there in his office by Shelby Henderson, a "Minister of the Gospel." When the habeas case was taken up again around 1:30 that afternoon, Judge Benson continued it for a day pending an investigation of the evidence provided. Sheriff Laird arrived back in Topeka that same day with corrected requisition papers for Chism from Missouri Governor Stone that he intended to present to Governor Morrill the next day. He also brought a number of affidavits from people in and around Warsaw that asserted there was no danger of Chism being lynched upon his returned there. That evening, a large group of people, "armed with shotguns and clubs" marched through the streets of Lawrence to the jail where Chism was being held and surrounded it, determined to guard against any attempts to take him away. The newspaper referred to the group as a mob, and decried it as a disgrace to the town. Apparently the black citizens of Lawrence had longer memories than the author of the newspaper article, because they undoubtedly took this action to ensure that there was no recurrence of what happened on June 10, 1882, when a mob broke into the jail in Lawrence, took out three black men who were being held there, and lynched them from the Kansas River bridge<sup>3</sup>, something that had truly been a disgrace to the town. When Judge Benson's court resumed on the

30th, a black attorney from Topeka named A.M. Thomas, presumably the lawyer referred to earlier as intending to "make a hard fight" for Chism, had a run-in with the judge. He was reported to have repeatedly asked for the court to demand the presence of Sheriff Laird in the hearing. Judge Benson supposedly said he had no right to try the case at that time as the warrant from Sheriff Laird was sworn to a Franklin County justice. Thomas was reported to have said he could show some underhanded work by the officers involved. Judge Benson set the case for a hearing on Wednesday, December 4th. Sheriff Laird presented his documents to Governor Merrill, but the Governor refused to honor the requisition from Governor Stone, and the Sheriff went back to Missouri disgusted with the Kansas authorities. Rose's father came to Lawrence to try to persuade his daughter to come home to Missouri. Sheriff Laird was quoted as saying that Rose was so infatuated with her husband that the visit would be fruitless. He was wrong, as Rose agreed to go back home with her father under the condition that charges of abduction against Chism were to be dropped. Thouvenel complied with his daughter's wishes, and sent telegrams to Benton County and Topeka asking that charges against Chism be dropped. Subpoenas were issued for Rose and her father to appear in Lawrence on the 4th, but they were probably never served. As they passed through Kansas City on the way home, Rose left her baby with the matron of a police station there, who promised to see to it that it was provided with a good home. They arrived in Sedalia, Missouri, on December 3rd. That afternoon, Sheriff Hindman received a telegram from Warsaw stating that the case against Chism had been dismissed. Chism was brought up before Judge Benson again the next day, December 4th, and the judge found that "the papers in the case were regular," and that he must stand trial in Ottawa, the county seat of

Franklin County. Later that day, a telegram was received from the authorities in Ottawa that the proceedings against Chism were being dismissed without requiring the formality of bringing him back to Ottawa from Lawrence. Chism was immediately released from jail. Sheriff Hindman came under attack from the *Kansas State Ledger*, which implied he was crooked, accusing him of having moved Chism to Ottawa where he would get more sympathizers. After his release, Chism went to work on a farm near Lecompton, Kansas. On October 29, 1896, Chism filed a \$15,000 damage claim in the district court against D.N. Burge, former sheriff of Shawnee County, C.D. Watson, former deputy sheriff of Shawnee County, L.W. Hindman, former sheriff of Douglas County, and J.A. Elwell, Sheriff of Franklin County, for false imprisonment. He contended that as there was no warrant issued against him when he was arrested in November of 1895, the motivation for the arrest was the promise of a reward, and that the officers named in the suite had conspired to earn the money. He asserted that "he was moved rapidly from place to place mostly at night and in a very secretive manner" in order to keep his friends from getting him released on a habeas corpus writ. He claimed mental and physical anguish, and damage to his health and reputation. In the November 3, 1896 election, John W. Leedy was elected as the new governor of Kansas. He took office on January 11, 1897, replacing Edmund Morrill, the man who had denied Chism's extradition to Missouri. Four days later, on the 15th, four men in a wagon came to the Emery farm near Lecompton where Chism worked and demanded that he come with them. He refused, and the men went on to Lecompton. Towards evening, they returned to the farm and read aloud what they said was a warrant for his arrest. Chism reluctantly went with them. It was reported in the newspaper that the men said that he was an escaped convict from the Missouri peni-

entiary. On the 18th, Sheriff Laird from Benton County presented to Governor Leedy a requisition for Chism signed by Missouri Governor Stevens. Leedy determined the papers were in order and signed permission for Laird to take Chism out of Kansas. Some of the black citizens of Topeka got wind of what was happening and tried to get it stopped but were too late. Laird quickly took Chism into Missouri. In the evening, Governor Leedy telephoned officials in Lawrence informing them that the requisition had been issued by him "under a misapprehension" and that if Chism was still in town that he should be held "at all hazards." They informed him that Chism had not been in Lawrence since before his arrest, and that it was too late. Exactly why the authorities in Missouri had chosen to go after Chism again, over a year after Thouvenel had requested he not be prosecuted, is not clear, but the *Lawrence Daily World* thought it knew when it observed, "These Missouri officers have long memories and consider it their religious duty to catch colored men when they can." There was great apprehension in Topeka and Lawrence that Chism was doomed. On the 19th, Governor Leedy sent Governor Stevens a telegram, stating that he understood that Fred Chism was threatened with violence in Benton County, and asked that he be protected. Stevens replied that he had notified the authorities in Warsaw to protect him "at all hazards." Chism received a preliminary trial in Warsaw during the second week of February. His attorneys were T.B. Wheeler and W.L.P. Burney<sup>4</sup>, and it was reported that they presented no evidence, but made the state "show its hand." It was also reported that Chism had no money and his attorneys had not been paid a cent. Although he was bound over to the grand jury for \$500, it appeared the case against him was not very strong. In mid-May, Chism's suit for damages against former Douglas County Sheriff Hindman, former Shawnee County Sheriff

Burge, and current Franklin County Sheriff Elwell was dismissed due to lack of prosecution. Chism's abduction case went to trial the second week of August. It appears his lawyers argued that because Missouri had lowered the age of consent to 14 prior to Chism and Rose having run away together, he had violated no law, since being 16-years-old, she was free to do what she wanted without her father's permission. Whatever that argued, Chism was acquitted of all charges on August 18th. In September 1897, Chism went to Topeka and filed a new suit for damages against former sheriff Burge. The outcome of that suit is unknown. Chism decided to remain in Missouri, but despite this, his marriage to Rose did not last. The two divorced, and he married a black woman named Callie Callius on August 25, 1898, in Benton County. Four days later, Rose remarried, as sarcastically reported by the Sedalia Democrat, to "a blonde white man, as far away in complexion from the son of Ham as possible" who was named William Willhite. Fred and Callie Chism, along with Fred's father General, settled on a farm in Pettis County, the Missouri county immediately north of Benton County. Sometime before 1910, the Willhites moved to a farm in Kearny County, Kansas. The Chisms had at least three children, Walter, Julia, and Clara, and the five were still living together as a family in Pettis County as late as 1920. Charles Thouvenel died on January 30, 1922, and Rose and William eventually moved to King County, Washington. There is no evidence that they had children together. Chism later married another woman named Angeline, but what happened to Callie is not known. Fred Chism died in Appleton City, St. Clair County, Missouri, on November 5, 1940, of natural causes, and was buried in the Appleton City Cemetery. Rose died on November 9, 1958, in Washington, and was buried in Carnation Cemetery in King County.

<sup>1</sup> No documents have been found with the name Frederick, but a reference to the birth of a child record this as his first name. In addition, there is other circumstantial evidence that supports this. In some newspaper accounts his last name is incorrectly spelled "Chisholm".

<sup>2</sup> There is some confusion as to what her full name actually was. In a reference to the birth of her baby, her name is listed as Rachel Rosa Rosetta Thouvenel. Several census records have her name as Rachel R., while one has her as Rosetta [sp.]. Newspaper accounts refer to her as either Rose or Rosa. Rose and Rosa can both be nicknames of Rosetta, and having two middle names as similar as Rosa and Rosetta would be unusual but not unheard of. Baring more information, it is not possible to be completely certain as to her full name. In some newspaper accounts the family's last name is spelled "Thouvenal".

<sup>3</sup> See the [This Month In Legal History article for June 2010](#) for the story of this dark day in Lawrence history.

<sup>4</sup> Burney was a graduate of the University of Kansas Law School.

From: [Fred D. Chism](#), Missouri Death Certificates, 1910 - 1963, Missouri Digital Heritage website; Chism, Fred D., 1900 U.S. Census, Lake Creek Township, Pettis County, Missouri, 6/18/1900; Chism, General, 1880 U.S. Census, Haw Creek Township, Morgan County, Missouri, 6/5/1880; [Rachel Thouvenel Willhite](#), Find A Grave website; [Charles Nicholas Thouvenel](#), Find A Grave website; Lawrence Daily Journal, v. 27, no. 278 (November 21, 1897) p. 4; Lawrence Daily World, v. 4, no. 229 (November 21, 1895), pp. 3, 4; Lawrence Daily World, v. 5, no. 211 (October 30, 1896), pp. 3; Lawrence Daily World, v. 4, no. 230 (November 22, 1895), p. 3; Lawrence Daily World, v. 4, no. 232 (November 25, 1895), p. 3; Lawrence Daily Journal, v. 27, no. 282 (November 26, 1897), p. 4; Lawrence Daily World, v. 4, no. 233 (November 26, 1895), p. 3; Lawrence Daily World, v. 4, no. 234 (November 27, 1895), p. 3; Lawrence Daily Journal, v. 27, no. 284 (November 28, 1895), p. 4; Lawrence Daily Journal, v. 27, no. 285 (November 29, 1895), p. 4; Lawrence Daily World, v. 4, no. 236 (November 29, 1895), p. 2; Douglas County, Kansas, Marriage Certificates; Lawrence Daily World, v. 4, no. 237 (November 30, 1895), pp. 3, 4; Lawrence Daily Journal, v. 27, no. 287 (December 2, 1897). p. 4; Lawrence Daily World, v. 4, no. 238 (December 2, 1895), p. 1; Lawrence Daily Journal, v. 27, no.288 (December 3, 1895), p. 4; Lawrence Daily Journal, v. 27, no.289

(December 4, 1895), p. 4; Lawrence Daily World, v. 4, no. 240 (December 4, 1895), pp. 1-3; Lawrence Daily World, v. 5, no. 279 (January 18, 1897), p. 3; Lawrence Daily World, v. 5, no. 280 (January 19, 1897), p. 3; Lawrence Daily World, v. 5, no. 281 (January 20, 1897), p. 2; Lawrence Daily Journal, v. 29, no. 39 (February 15, 1897), p. 4; Lawrence Daily Journal, v. 29, no. 119 (May 19, 1897), p. 4; Lawrence Daily Journal v. 29, no. 197 (August 18, 1897), p. 4; Lawrence Daily Journal, v. 29, no. 220 (September 14, 1897), p. 4; [Benton County, Missouri Marriages, Book G \(July 1897 to August 1901\) Bride Index](#), USGenWeb Archives website; Sedalia Democrat (September 4, 1898), p. 1; Chism, Fred D., 1920 U.S. Census, Sedalia City, Sedalia Township, Pettis County, Missouri, 1/9/1920; Willhite, William, 1910 U.S. Census, Kendall Township, Kearny County, Kansas, 5/10/1910; Chism, Fred D., 1940 U.S. Census, Appleton City, Appleton Township, St. Clair County, Missouri, 4/29/40; and, Willhite, W.P., 1940 U.S. Census, Stillwater Precinct, King County, Washington, 5/4/1940.

Each month, an event from "This Month In Legal History," the history of law and jurisprudence of Douglas County that occurred during that month, is included in the Newsletter. The current entry is also posted for the month on the Law Library's website. Entries from past months are [archived](#) on the website. Submissions from readers are welcome and encouraged.

### **Law Library Volunteer Opportunities**

The Law Library Volunteer Program provides a capable and dependable volunteer work force to assist with the day-to-day operations of the Law Library and with its special projects. This work force supplements the paid Library staff and allows the Library to provide the best possible service to attorneys, local judges, and the public.

The Volunteer Program is instrumental in linking a valuable community resource - the citizens - with a valuable community institution - the Michael J. Malone Douglas County Law Library - for the benefit, growth, and enrichment of both.

If you or someone you know might be interested in volunteering for one of them, or if you would like more information on our program and/or the positions we have open, please contact the Library or visit the "Volunteers" page on the Law Library's website.

### **Feedback**

This Newsletter is intended to be useful to its readers. As in any enterprise, feedback on how the Newsletter is fulfilling this goal is crucial to our achieving it. If our articles are helpful, let us know. If they are not, let us know. If you have suggestions on how to improve the Newsletter, or comments and suggestions on the Law Library itself, please let us know. For your convenience, there is a link to a [feedback form](#) available on most pages of the Law Library's website. Thank you.

### **Submitting Articles for Newsletter**

The Editor encourages readers to submit articles for publication and/or make suggestions on material to be included in future issues of the Newsletter.

### **To Subscribe**

Contact the Law Library by mail, e-mail, or telephone and request a free subscription to the Newsletter. It will be sent to you as a PDF attachment to an e-mail. The Library's mailing address is: Michael J. Malone Douglas County Law Library, Judicial and Law Enforcement Center, 111 East 11<sup>th</sup> Street, Lawrence, Kansas, 66044. The Law Library's telephone number is: 785-838-2477. The Library's e-mail address is: [info@douglascolawlibrary.org](mailto:info@douglascolawlibrary.org).

### **Back Issues**

Back issues of the Newsletter are [archived](#) on the Library's website.

## Classified Ads

Free classified ads may be placed in the Newsletter by contacting the Law Library. The Editor reserves the right to refuse anything deemed inappropriate and to add restrictions as the need arises.

No Ads this Month.



### **Michael J. Malone Douglas County Law Library E-Mail Newsletter**

Editor: Kerry Altenbernd

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