

IN THE CIRCUIT COURT FOR THE STATE OF TENNESSEE  
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

PAMELA MOSES, )  
 )  
 Plaintiff, ) Case No. CT-1579-19  
 ) Division I  
 v. )  
 ) Judge Felicia Corbin-Johnson  
 MARK GOINS, TRE HARGETT, and ) Judge Suzanne S. Cook  
 JONATHAN SKRMETTI, in their official ) Judge Barry Tidwell  
 capacities, )  
 )  
 Defendants. )

**SUPPLEMENT TO EXPERT REPORT OF DR. PHILIPPA (PIPPA) HOLLOWAY**

November 25, 2025

## **INTRODUCTION AND SUMMARY OF OPINIONS**

My name is Philippa (Pippa) Holloway. I am the Cornerstones Professor of History and Chair of the History Department at the University of Richmond. I have been asked by attorneys for the plaintiff in this litigation to assist the court in assessing the history and intent underlying the constitutional provisions and statutes governing the qualification of voters and operation of elections, including provisions related to the eligibility of convicted felons to vote, such as the Free and Equal Elections Clause of the Tennessee Constitution.

I previously issued a report in this case dated April 15, 2025 (the “Holloway Report”). Since issuing the Holloway Report, I was asked to determine whether Tennesseans could be convicted of an infamous crime by a guilty plea in 1870. This involved an assessment of: (1) What crimes were infamous in Tennessee in 1870; and (2) If Tennesseans could plead guilty to those crimes in 1870.

Based on my knowledge and over 20 years of experience as a historian of the U.S. South, and my review and research of this question for the purposes of this supplement, it is my opinion that Tennesseans could be convicted of an infamous crime by a guilty plea in 1870.

My methodology for preparing this supplement was consistent with the methodology that I used for preparing the Holloway Report. Specifically, I consulted primary and secondary sources, including court opinions and newspaper articles, to answer these questions.

## **TENNESEANS COULD PLEAD GUILTY TO INFAMOUS CRIMES IN 1870**

### **I. The crimes that were considered infamous under Tennessee law in 1870.**

The publication, *A Compilation of the Statute Laws of the State of Tennessee of a General and Permanent Nature Compiled on the Basis of the Code of Tennessee, with Notes and References, Including Acts of Session of 1870-'71*, has a clear and concise list of crimes that were considered infamous crimes in 1870.<sup>1</sup> Those crimes are listed below:

Upon conviction of the crimes of abusing a female child, arson and felonious burning, bigamy, burglary, felonious breaking and entering a mansion house, bribery, buggery, counterfeiting, violating any of the laws to suppress the same, forgery, incest, larceny, perjury, robbery, receiving stolen property, rape, sodomy, stealing a free person of color, stealing a slave, stealing bills of exchange or other valuable papers, subornation of perjury, and destroying a will, it shall be part of the judgment of the court that the defendant be infamous and be disqualified to give evidence or to exercise the elective franchise.

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<sup>1</sup> “When Judgement Renders Defendant Infamous,” Title IV, Chap. 15, Sect. 5226, Seymour D. Thompson and Thomas M. Steger, *A Compilation of the Statute Laws of the State of Tennessee of a General and Permanent Nature Compiled on the Basis of the Code of Tennessee, with Notes and References, Including Acts of Session of 1870-'71*, vol. III (St. Louis, Mo.: W. J. Gilbert Law Book Publishers, 1872), 220.

These crimes were considered infamous crimes prior to 1870. Indeed, this section of the 1870 code references the Act 1829 Chapter 23, Section 71, which previously established those crimes as infamous crimes. If there was any question about the details of the list of infamous crimes, one would consult the original source, which was the 1829 Act. That act has more detail about what constitutes each of those offenses.<sup>2</sup>

## **II. Tennesseans could plead guilty to infamous crimes in 1870**

There is evidence from a variety of different sources that Tennesseans could be convicted of an infamous crime by a guilty plea in 1870.

### **A. Evidence from statute**

Dating back to the Act of 1831, Chapter 83, Section 1, Tennessee statute defined the process for affixing the sentence following a guilty plea, demonstrating that legislators expected guilty pleas to be a regular part of criminal proceedings. The statute made no differentiation between guilty pleas for infamous and non-infamous crimes.<sup>3</sup> This law was cited in the 1871 code, demonstrating that it was still part of the code.<sup>4</sup> As discussed below, there is evidence that courts utilized this process following convictions for infamous crimes.

### **B. Evidence from published appellate cases**

Few appellate cases reference guilty pleas for the obvious reason that a plea of guilty rarely raised questions of law. Nonetheless, I found one case from 1868 where a defendant named James Nolan appealed a decision from a court in Montgomery County that had involved a plea of guilty to a crime of grand larceny (i.e., an infamous crime),<sup>5</sup> which is evidence that individuals could and did plead guilty to infamous crimes. On appeal, the Supreme Court of Tennessee noted: “The plaintiff in error was arraigned and charged upon a bill of indictment for Grand Larceny, before the Circuit Court of Montgomery County, Tennessee, at the September Term, 1868, of said Court; to which charges the plaintiff plead guilty.” There is no evidence that a plea of guilty was out of the ordinary in this case. In fact, Nolan’s ability to plead guilty was not a question raised in the appeal.<sup>6</sup> Nolan

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<sup>2</sup> Act 1829 Chapter 23, Section 71, R.L. Caruthers and A.O.P Nicholson, *A Compilation of the Statutes of Tennessee of a General and Permanent Nature from the Commencement of the Government to the Present Time* (Nashville, Tenn.: The Steam Press of James Smith, 1836), 316-329.

<sup>3</sup> Act of 1831, Chapter 83, Section 1, R.L. Caruthers and A.O.P Nicholson, *A Compilation of the Statutes of Tennessee of a General and Permanent Nature from the Commencement of the Government to the Present Time* (Nashville, Tenn.: The Steam Press of James Smith, 1836), 241.

<sup>4</sup> Seymour D. Thompson and Thomas M. Steger, *A Compilation of the Statute Laws of the State of Tennessee of a General and Permanent Nature Compiled on the Basis of the Code of Tennessee, with Notes and References, Including Acts of Session of 1870-'71, vol. III* (St. Louis, Mo.: W. J. Gilbert Law Book Publishers, 1872), 213-214.

<sup>5</sup> The Act of 1829, Chapter 23, Sections 23 and 25 defined larceny and differentiated between grand and petit larceny. The Act of 1829, Chapter 23, Section 71 decreed that all persons convicted under those two sections were rendered infamous. Act 1829 Chapter 23, Section 23 and 25, R.L. Caruthers and A.O.P Nicholson, *A Compilation of the Statutes of Tennessee of a General and Permanent Nature from the Commencement of the Government to the Present Time* (Nashville, Tenn.: The Steam Press of James Smith, 1836), 319; Act 1829 Chapter 23, Section 71, R.L. Caruthers and A.O.P Nicholson, *A Compilation of the Statutes of Tennessee of a General and Permanent Nature from the Commencement of the Government to the Present Time* (Nashville, Tenn.: The Steam Press of James Smith, 1836), 327.

<sup>6</sup> *Nolin v. State*, 46 Tenn. 12, 12-13, 6 Cold. 12 (Tenn. 1868).

was represented by John C. Thompson, who was a delegate at the Tennessee Constitutional Convention of 1870.<sup>7</sup> This lends support for the notion that the delegates of the 1870 constitutional convention were not unaware of the difference between convictions by a jury and convictions by a guilty plea.

### C. Evidence of guilty pleas in newspaper articles

Nineteenth century newspapers often reported on matters in local courts, and many Tennessee newspapers from this time referenced instances of guilty pleas for infamous crimes during this time.

- In June 1867, Nick Foster and Henry Fergusen pleaded guilty to petit larceny in Bolivar and were sentenced to a year in prison.<sup>8</sup>
- In June 1867, Thomas Cunningham pleaded guilty to petit larceny in Bolivar and was sentenced to a year in prison.<sup>9</sup>
- In September 1867, Jack Vaughn pleaded guilty to larceny in Nashville and was sentenced to twenty days in jail.<sup>10</sup>
- In December 1867, John Smith pleaded guilty to horse stealing in a Nashville and was sentenced to twelve years in prison.<sup>11</sup>
- In December 1867, Samuel McNair pleaded guilty to horse stealing in a Nashville and was sentenced to ten years in prison.<sup>12</sup>
- In January 1868, Alexander Moss pleaded guilty to larceny in Nashville and was sentenced to five years in prison.<sup>13</sup>
- In October 1869, Joe Dunlap pleaded guilty to grand larceny in Memphis and was sentenced to three years in prison<sup>14</sup>.

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<sup>7</sup> John C. Thompson was listed as a delegate from Davidson County. *Journal of the Proceedings of the Convention of Delegates Elected by the People of Tennessee, to Amend, Revise, Or Form And Make a New Constitution, for the State*, (Nashville: Jones, Purvis & Co., 1870), 5.

<sup>8</sup> *Bolivar Bulletin*, June 29, 1867, p. 2.

<sup>9</sup> *Bolivar Bulletin*, June 29, 1867, p. 2

<sup>10</sup> *Nashville Republican Banner*, September 25, 1867, p. 4.

<sup>11</sup> *Nashville Republican Banner*, December 14, 1867, p. 4. Stealing a “horse, mare or gelding, filly, foal, mule, or ass” was a larceny and an infamous crime. Act 1829 Chapter 23, Section 23, R.L. Caruthers and A.O.P Nicholson, *A Compilation of the Statutes of Tennessee of a General and Permanent Nature from the Commencement of the Government to the Present Time* (Nashville, Tenn.: The Steam Press of James Smith, 1836), 319; Act 1829 Chapter 23, Section 71, R.L. Caruthers and A.O.P Nicholson, *A Compilation of the Statutes of Tennessee of a General and Permanent Nature from the Commencement of the Government to the Present Time* (Nashville, Tenn.: The Steam Press of James Smith, 1836), 327.

<sup>12</sup> *Nashville Republican Banner*, December 14, 1867, p. 4.

<sup>13</sup> *Nashville Republican Banner*, January 22, 1868, p. 4.

<sup>14</sup> *Memphis Daily Appeal*, October 26, 1869, p.4.

- In July 1869 Julius Boleran pleaded guilty to grand larceny in Memphis and was sentenced to four years in prison.<sup>15</sup>
- In March 1870, Julia Whitworth pleaded guiltily to petit larceny in Nashville was sentenced to one year in prison.<sup>16</sup>
- In October 1870, James Southern pleaded guilty to forgery in Goodson.<sup>17</sup>

Chilip Hall

Date: November 25, 2025

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<sup>15</sup> *Memphis Daily Appeal*, July 23, 1869, p. 4.

<sup>16</sup> *The Tennessean*, March 10, 1870, p. 4.

<sup>17</sup> *Bristol News*, October 28, 1870, p. 3