Condy Dabney

KENTUCKY

CONDY DABNEY arrived in the little mining town of Coxton, Kentucky, in January, 1925, looking for work. He was a young man of thirty-one, with a wife and two children. Not knowing whether he would find employment in Coxton, he had left his family at home in Coal Creek, Tennessee.

Dabney was used to working in the coal mines that were numerous in this section of Kentucky and Tennessee. It was not long before he found work in a mine near Coxton. He soon established a reputation as a quiet man with a good disposition, though somewhat taciturn. He had no police record and as far as anyone knew he had never been in trouble with the authorities of Tennessee or Kentucky.

Soon after he went to work Roxy Baker, a sixteen-year-old Coxton girl, disappeared. The community was mystified and somewhat excited. Just before the Grand Jury met to investigate the disappearance three Coxton men disappeared. No one could account for their whereabouts. The Grand Jury, however, did not involve them in the Baker case and no indictment was returned.

About the first of July, Dabney gave up his job in the mines, bought an old Ford, and began running a taxi in and about Coxton. He had been driving this taxi but a month when the community was again aroused to a high pitch of excitement. Three women disappeared. Two of them were married, and nothing was ever heard of them again. The third was Mary Vickery, the fourteen-year-old daughter of E. C. Vickery. The Grand Jury met once more and this time there were two definite suspects—William Middleton and Condy Dabney—who were reported to have been seen taking Mary for automobile rides.

Despite the testimony of many witnesses, the Grand Jury again failed to indict. Middleton and Dabney were released and the investigation failed to turn up any pertinent evidence. But Dabney's troubles were not over.

In September, Dabney left Coxton to return to his family in Coal Creek. He had been told, according to statements he made later, that one of his children was sick and for that reason he wanted to find work near Coal Creek.

There are a number of mine shafts around Coxton, some of them old workings. Those that have been abandoned are sometimes used as hiding places for the storage of whiskey or as convenient places for operating stills.

United States Marshal Adrian Metcalf had been told that there was a still hidden in one of the shafts on Ivy Hill, near Coxton, and on the twenty-first of October he set out to look for it.

In the course of his search Marshal Metcalf came to the old Bugger Hollow shaft, an abandoned working. In the dark he stumbled over a pile of stones in one of the passageways and near them he found some clothing. His suspicions were aroused and he called in several other men. Presently they had unearthed the body of a girl. An old black winter coat had been thrown around it. There was no other clothing except pink bloomers, a hat, shoes, and stockings.

The body was badly decomposed, but it was thought to be that of a girl perhaps between twelve and fourteen years old. Mary Vickery had been missing about two months and the discovery of the body brought an insistent demand that the Vickery case be reopened. It was generally believed that the body found in the old Bugger Hollow shaft was Mary's. As the weeks passed various stories went the rounds of the perturbed little town and gradually suspicion began to point more and more impressively toward Condy Dabney. Perhaps the tales which did most to involve Dabney were woven out of material supplied by one Marie Jackson, who finally became the principal witness against him.

So incriminating were the stories that the Kentucky authorities twice visited him at his home in Coal Creek to question him, but each time they returned apparently impressed by his protestations of innocence.

Though he knew, of course, something of the strength of the suspicions in Coxton concerning him, he returned to the Kentucky town in March. Soon after his arrival he was examined by the Grand Jury and on the eighteenth of March an indictment charging him with the murder of Mary Vickery was returned.

Mary's father seemed certain that the body found in the old mine was that of his daughter. At the trial his positive statements indicated clearly that there was no doubt in his mind concerning the identification.

He told of going to the mine after the body had been found and picking up a ring which played an important part in establishing the girl's identity. The defense suspected that the ring had been planted, but other witnesses testified that they had seen it at the mine and one of them testified that he saw Vickery pick it up. It was covered with decayed flesh and a friend of Vickery's carried it on a stick, being unwilling to touch it.

Vickery said he also found some flesh and hair in the mine and a piece of a stocking with a darn in it that he remembered seeing in Mary's stocking. He identified it by its form, which he described as being like the letter *L*. He identified the hair as of the same color as his daughter's, saying it was "sandy like and bobbed, and very fine."

The ring, he said, was one he bought for Mary in Knoxville, Tennessee, for her birthday, June 7. Asked if she had ever run away from home before, he replied in the negative and denied the suggestion that the girl did not get along with her stepmother.

On cross-examination Vickery testified that he did not attend the funeral and that he allowed the county to bury the body. Pressed for an explanation, he hesitated. Before he could reply, Dabney's attorney, G. G. Rawlings, suggested: "You did not know that was your girl, that is what you started to say, wasn't it?"

"At the present time I wasn't perfectly sure," Vickery replied.

G. J. Jarvis, counsel for the prosecution, took the stand and testified that Vickery stated at the undertaker's, where the body had been taken after its discovery, "That is my girl." Another witness testified that Vickery had said he was not sure it was his daughter. There was conflicting testimony as to the color of the hair found in the mine. One witness said it was brown; another described it as black and very coarse.

Then came Marie Jackson, upon whose allegations the state had leaned heavily to obtain an indictment. Her story, briefly, was as follows:

About seven o'clock the morning Mary Vickery disappeared, she and Mary stopped Dabney's taxi as it came up to them on a road just outside of Coxton. Marie ordered Dabney to drive them to town, where they arrived about ten o'clock (though the distance seems to have been but four or five miles). Dabney, she testified, took them to Marler's Restaurant, where she got out. Dabney then drove away with Mary and did not return until one o'clock. When he came back, she said, all three of them drove out to Ivy Hill, Mary sitting in the front seat with Dabney. At the hill they got out of the car and sat down on a log in a clearing. After they had talked a little while, according to Marie, Dabney told her to go around behind the hill as he wanted to talk to Mary alone. She said she went away and sat down at a place from which Dabney and Mary were visible to her. She told the court that she saw Dabney hug the girl, who protested, and then strike her with a stick. Mary fell to the ground and the witness said she saw Dabney attack her. She then told how Dabney walked around the hill, came back, and finally found her. He told her, she said, that if she ever mentioned what had happened he would burn her at the stake and that if he was prevented he would have someone else do it. She said Condy then took the body into the mine while she fled from the scene.

She testified that she met Dabney next day and rode with him as far as Pineville, on her way home. She did not mention the murder, fearing that he might attack her.

This story appears to have impressed the jury greatly, though other witnesses offered testimony that conflicted with it in several respects.

Three girls—the Stewart sisters and a Miss Smith—whose testimony was substantially in agreement, testified that they saw Dabney and Mary Vickery between two and four on the afternoon she disappeared. The Stewart sisters said that they were walking along the road with Mary to their grandmother's about two o'clock, when Dabney came along, with a woman in his car, and asked them if they wanted a ride. They refused. Soon after, William Middleton and Otis King came along and all three of the girls rode with them for a while, the two sisters finally leaving Mary in the car talking with Middleton and King.

This was substantiated by Middleton, who set the time as being about four o'clock. King said he did not know Mary Vickery but that he found out later that it was she who had been in the car. The mother of the Smith girl, who said she saw Dabney and Mary together, testified that she saw Mary before that with the other two girls and two men. This testimony accounted for Mary's time between two and four o'clock of the afternoon she disappeared and contradicted the testimony of Marie Jackson, who said that she and Mary and Dabney were on Ivy Hill from one o'clock until nearly dark.

Another witness said he talked with Dabney after getting off the train in Coxton one morning and inquired if Mary had been found. Asked what Dabney had replied, he testified: "I believe he said there wasn't much use hunting for her—going any ways off to look for her, he didn't think she was very far off."

The state also offered as a witness one Claude Scott, with whom Dabney had spent some time in jail while awaiting trial. He said he had known Marie Jackson fifteen years; that he had talked to her while in jail; and that he delivered a letter to Dabney from Marie. He said Dabney offered him fifteen dollars to testify in the case, and, to use his own words, ". . . he tried to make me remember stuff that Marie Jackson should have said through that window to me; while he was sitting there he tried to make me remember stuff I never heard her say and she never said to me."

Finally Dabney took the stand in his own defense. He told a straightforward story of his movements from July, 1925, to March, 1926. He said he did not remember ever carrying Mary Vickery in his taxi, but that he might have done so, as he carried many people he did not know. He said he knew

Marie Jackson, and had taxied her occasionally with men. He said he did not know Marler's Restaurant, and that he had never been on Ivy Hill. He called Marie Jackson's testimony false and said he left Coxton because he had received a letter saying his little daughter was ill. When he got home to Coal Creek he worked at various jobs during the late fall and winter and was at all times available to police officers, he said. He testified that he had been arrested on suspicion in the Vickery case but was later released. He told the court that he did not refuse to return to Coxton and he denied that he returned in March only after hearing that the Grand Jury declined to indict him. He insisted that he was innocent and knew nothing whatever about the disappearance of Mary Vickery.

On March 31, 1926, the jury returned a verdict of guilty and recommended life imprisonment. A motion for a new trial was overruled. An appeal was taken. On the same day Dabney was sentenced to be confined for life at hard labor in the state penitentiary at Frankfort.

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As Dabney was without funds and had had to take the pauper's oath, a transcript of the testimony was printed at the state's expense and filed with his bill of exceptions, May 19. His appeal to the Kentucky Court of Appeals was pending, almost a year later, when on a night in March, Patrolman George S. Davis noticed, quite by chance, the name of Mary Vickery on the register of a hotel in Williamsburg, Kentucky.

The name sounded familiar to Davis. He thought he had heard it before. He asked about it and was told that Mary Vickery had lived in the hotel at one time. He was told that she had gone across the Cumberland River to visit friends. He soon found her and recognized her at once; and the story she told Davis was quite different from the imaginative tale Marie Jackson had spread upon the record.

Mary said she left Coxton, August 23, 1925, with five dollars in her pocketbook, because she couldn't get along with her stepmother. She had gone to the train in a taxi.

She did not know the driver, but the description she gave fitted Dabney. She was sure she did not know Marie Jackson. From Coxton she said she went first to Livingston, where she worked as a waitress, then to Berea, where she worked as a maid. From Berea she moved on to Mount Vernon and finally to Cincinnati, where she found work in a woolen mill. She admitted that while in Cincinnati she had heard that someone had been convicted of murdering her and was told that she should go home, but it was some time before she decided to do so. She informed Davis that she was then on her way back to Coxton.

Her return to Coxton led to an immediate pardon for Dabney and the appointment of G. J. Jarvis as a special investigator to inquire into the conduct of Marie Jackson. True to form Marie offered more stories about the Vickery case, all untrue. Jarvis was quoted in one newspaper account as being of the opinion that Marie Jackson testified against Dabney to get a $500 reward that had been offered, but other accounts have it that Marie wanted Dabney to leave his wife and children and live with her. He would not consent and for revenge she testified against him.

As a result of Jarvis' investigation of the Jackson episode, she was convicted of false swearing, and on the same day (March 27) it was reported that Mary Vickery was married to C. E. Dempsey by Rev. H. C. Davis of the Baptist Church of God in Coxton.

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READING the cold record, it seems hard to understand why a jury should deduce from so much conflicting testimony a conclusion of Dabney's guilt. Perhaps Dabney's directness and apparent indifference operated against him, rather than in his favor. So far as personal credibility was concerned, there should have been but little question—he had been an inconspicuous, unobjectionable citizen. Marie Jackson, the state's star witness, had not been. Why she should have been believed, and not he, is hard to say. Perhaps unfavorable inferences were drawn from his six months' return to his home in Coal Creek, Tennessee, shortly after Mary Vickery's disappearance. But if Marie Jackson was believed by the jury, the testimony of the Stewart girls and Miss Smith must have been disbelieved, for the Jackson story was quite inconsistent with theirs. The father's identification of a decomposed body was also none too certain, and the difference among the witnesses as to the color of the hair should have aroused suspicion of the accuracy of the identification. But it was assumed that murder had been committed, and someone must apparently be required to suffer for it. Piecing together every unfavorable inference, however inconsistent, and refusing to give weight to evidence in Dabney's favor, the jury became sufficiently convinced that the murder could and should be charged to Dabney. Perjury and too easy credulity, operating on minds predisposed by the circumstances of time and place to believe the worst, rather than official or judicial incompetence, were responsible for a grievous miscarriage of justice.

BIBLIOGRAPHY

1. The Bill of Evidence in the case, 2 volumes, filed May 19, 1926, in the Harlan, Ky., Circuit Court, F. M. Jones, Clerk; also filed in the Kentucky Court of Appeals, Frankfort, Ky., June 30, 1926, John A. Goodman, Clerk.

2. The Appellant's Brief, filed June 30, 1926, in the Kentucky Court of Appeals, Frankfort, Ky., by G. G. Rawlings, Harlan, Ky.

3. The Bill of Exceptions, order, etc., filed June 30, 1926, in the Kentucky Court of Appeals.

4. Various news reports in the *Louisville Courier-Journal* from March 20 to March 27, 1927.

5. A news report in the *New York Times* of March 20, 1927.

6. Numerous letters from Dean Alvin E. Evans, University of Kentucky, Lexington, Ky.; W. B. O'Connell, Clerk of the Kentucky Court of Appeals; Hon. J. L. Hughett, Commissioner of Pardons, Frankfort, Ky.; G. G. Rawlings, Harlan, Ky.; G. J. Jarvis, Harlan, Ky.