

INFORMATION & DATA ON THE FAMILY OF:

CHARLES CLINTON & SARAH F. (MAGGARD) WARD
1879-1960 1878-1971

Being a collection of information from Public records, biographies, histories and family sources, and arranged to present a coherent view of said family and their individual relationship. This has all been done for the purpose of preserving for future generations a knowledge of their past.

Date 11 Jan. 1986

Edward E. Bartlett, Compiler

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WARD

Surname

FAMILY INFORMATION CHART NO. _____

Husband's full name Charles Clinton WARD
 born on 27 June 1879 at St. Clair County, Missouri
 married 17 May 1899 at Decatur County, Kansas
 died on 23 June 1960 at Lowery City, St. Clair Co., MO
 intered at Kidds Chapel Cemetery . Groom's 1st marriage
 Farmer R.L.D.S. None
 Occupation Religion Military Service

Elias Perry WARD . Alta Ocena BRANDON
 His Father 1843-1917 Mother's maiden name 1848-1936

Wife's maiden name Mrs. Sarah Frances MAGGARD Moore
 born on 15 June 1878 at Greensburg, Knox Co., MO
 died on 28 Sept. 1971 at Longmont, Colorado
 intered at North Platte, Nebraska . Bride's 2nd marriage
Jesse MAGGARD . Isabell
 Her Father Mother's maiden name

Authority or Source of Data:

Charles C. Ward
 Mrs. Nina A. Krueger

Records, Census & Others:

Decatur Co., KS, Marriage Lic-
 ence Record, Pg. 585.

Abodes and removals :

Sex	Their Children	Additional Information:
	<p>(1) Name <u>Alta Isabell WARD</u> born on <u>25 Mar. 1901</u> at <u>Liberty Center, Iowa</u> died on <u>5 Sept. 1963</u> at <u>No. Platte, Nebraska</u> married <u>14 July 1917</u> at <u>No. Platte, Nebraska</u> to: <u>LeRoy Ellison WALKER</u> <u>b. 6 Feb. 1895, d. 24 Jan 1982</u></p>	<p>Children: 1. Mildred Norrain Walker <u>b. 5 Nov. 1924, No. Platte, NE</u> 2. Joan Carrol Walker <u>b. 30 May 1930, No. Platte, NE</u> +++ Mr. Walker in Bertrand, NE, and died in Council Bluffs, IA.</p>
	<p>(2) Name <u>Zola Anna WARD</u> born on <u>22 June 1902</u> at <u>Devizes, Norton Co., KS</u> died on <u>30 May 1947</u> at <u>Sidney, Nebraska</u> ✓ married <u>25 Sept. 1917</u> at <u>Maxwell, Nebraska</u> to: <u>Fred Scott FUGATE</u> <u>b. 23 Sept. 1890, d. 25 Dec. 1977</u></p>	<p>Children: 1. Lucille Norine Fugate <u>b. 9 Aug. 1918, No. Platte, NE</u> +++ Mr. Fugate was born in Lincoln, NE, and died in McCook, NE.</p>
	<p>(3) Name <u>Nina Alice WARD (Twin to Earnest)</u> born on <u>17 Oct. 1903</u> at <u>Kenesaw, Adams Co., NE</u> died on _____ at _____ married <u>12 May 1920</u> at <u>Sterling, Logan Co., CO</u> to: <u>William Carl KRUEGER</u> <u>b. 19 Jan. 1898, d. 5 Dec. 1978</u></p>	<p>Children: 1. Harold Everett Krueger <u>b. 12 July 1921, No. Platte, NE</u> +++ Wm. C. Krueger was born in Blue Hill, NE and died in Dallas, TX</p>

List other children on the reverse side.

Form B-0285

This chart prepared by Edw^d Bartlett, Jan. 11, 1986

OVER, PLEASE

1880 CENSUS — UNITED STATES

Monegaw Tp, in the County of St Clair, State of Missouri
 enumerated by me on the 24th day of June, 1880

Chas W. Nesbit Enumerator

Name of Street	House Number	Dwelling Number	Family Number	Names	Color	Sex	Age prior to June last	Month of birth if born in census yr.	Relationship to head of house	Single	Married	Widowed, /	Divorced, /	Married in census yr.	Profession, Occupation or Trade	No. of months unemployed	Health Inform-ation Item No.	Attended School	Cannot read	Cannot write	Place of birth	Place of birth of father	Place of birth of mother
	107		111	WARD, Perry	W	M	36				/			Farmer						Ohio	Ohio	NY	
				Alta	W	F	32		Wife	/				Keeping House						Illinois	Ky	MO	
				Laura	W	F	12		Daughter							/				Iowa	Ohio	Ills	
				Fredie S.	W	M	10		Son							/				Iowa	Ohio	Ills	
				Earnest H.	W	M	3		Son											Missouri	Ohio	Ills	
				Charles C.	W	M	12		Son											Missouri	Ohio	Ills	

Health Information Item Numbers: 15 - Sick or temporarily disabled; 16 - Blind; 17 - Deaf & dumb; 18 - Idiotic; 19 - Insane; 20 - Maimed or crippled

PROBATE COURT.

Entered according to Act of Congress, in the year 1854, by GEORGE W. CHASE and HENRY M. FRANKLIN, in the office of the Librarian of Congress, at Washington.

MARRIAGE LICENSE RECORD.



State of Kansas, Decatur County, ss. Apr 30

May 15th A. D. 1899. To any Person Authorized by Law to Perform the Marriage Ceremony, Greeting:

You are Herby Authorized to Join in Marriage: Charles E Wood
of Cherokee County, ss. aged 21 years, and Carah Francis Moore
of Cherokee County, ss. aged 20 years, and of this License you will make due return to my office within
thirty days. [L. S.] William Pederman Probate Judge

State of Kansas, Decatur County, ss.

I the Undersigned, J. H. Hatch of _____ in said County, do hereby certify,
that in accordance with the authorization of the within License, I did, on the 17th day of May A. D. 1899.
at St. Ansgards in said County, join and unite in Marriage the within named Charles E Wood
and Carah F. Moore
Witness my hand, the day and year above written.

State of Kansas, Decatur County, ss.
I hereby certify the above to be a correct copy of the original Marriage License by me issued on the day first above written, together with a copy of the return indorsed
on such license by the person performing the marriage ceremony.

Official title: Justice Peace
J. H. Hatch
William Pederman Probate Judge

Court House in Decatur, Kan. 12.1.585

KANSAS

Ward, Charles C. (HEAD OF FAMILY) VOL. 50 E.D. 1066
 SHEET 9 LINE 50

W. May 1855 45 Missouri
 (COLOR) (MONTH) (YEAR) (AGE) (BIRTHPLACE)

Shannon (COUNTY) Street
 Tipton (CITY)

119

OTHER MEMBERS OF FAMILY

NAME	RELATIONSHIP	BIRTH		AGE	BIRTHPLACE	RESIDENCE
		MONTH	YEAR			
Ward, Maria V.	W	Feb.	1872	28	Mo.	Mo.
Hildebrand Arthur J.	S	Sept.	1878	11	Mo.	Mo.
Williams	S	May	1872	8	Mo.	Mo.
Ray	S	May	1874	6	Mo.	Mo.

1900 CENSUS - INDEX
 DEPARTMENT OF COMMERCE
 BUREAU OF THE CENSUS

U. S. GOVERNMENT PRINTING OFFICE 19-16474

KANSAS

Ward, Charles C. (HEAD OF FAMILY) VOL. 39 E.D. 94
 SHEET 4 LINE 79

W. June 1879 20 Missouri
 (COLOR) (MONTH) (YEAR) (AGE) (BIRTHPLACE)

Morton (COUNTY) Street
 Rockwell (CITY)

OTHER MEMBERS OF FAMILY

NAME	RELATIONSHIP	BIRTH		AGE	BIRTHPLACE	RESIDENCE
		MONTH	YEAR			
Ward, Sarah A.	W	June	1879	20	Mo.	Mo.
Moore, Robert H.	S	July	1896	3	Mo.	Mo.

1900 CENSUS - INDEX
 DEPARTMENT OF COMMERCE
 BUREAU OF THE CENSUS

U. S. GOVERNMENT PRINTING OFFICE 19-16474

SOUNDEX T-1066 Roll No. -145
 1900 KANSAS
 W-534 thru W-630 John A. **

KANSAS

Ward, Charles C. (HEAD OF FAMILY) VOL. 13 E.D. 217
 SHEET 9 LINE 87

W. June 1860 39 West Virginia
 (COLOR) (MONTH) (YEAR) (AGE) (BIRTHPLACE)

Reed (COUNTY) Street
 Va. Dep. (CITY)

OTHER MEMBERS OF FAMILY

1900 CENSUS - INDEX
 DEPARTMENT OF COMMERCE
 BUREAU OF THE CENSUS

U. S. GOVERNMENT PRINTING OFFICE 19-16474

Owned or rented	Owned free or mortgaged	Farm or house	Dwelling house number in the order of visitation	Families, number in order of visitation	Name of every person whose place of abode on the first day of March, 1905, was in this family.	Age last birthday. If under 1 yr, give months/thus 3 mo.	Sex (m/male (f)/female	Color / W - B - M - C - I	Place of birth, naming State or Territory of United States, or if of foreign birth	Where from to Kansas, naming State or Territory of United States or country, if a foreigner.	Profession, occupation or trade of each person, male or female, 10 years old or over.	Number of months unemployed	Trade or Profession being learned by each person, male or female, under 21 years of age.	Attended school within yr.	Persons 10 to 15 yrs	Persons 15 to 21 yrs	Persons 21 yrs & over	Honorably Disch'd Mil. Ser.	State in which enlisted	Name of Company or Command	No. or Reg. or other organization	Service - Infantry (I) Cavalry (C) Artillery (A) Navy (N)	Name of Prison in which confined as prisoner, if any	
R	f	39	MAGGARD, Jesse	58	m	Mo	Farmer																	
			" M I	50	f	"	"																	
			J L	15	m	Kan																		
			B O	13	m	"																		
			B R	11	f	"																		
R	f	65	WARD, C C	25	m	Mo																		
			" S F	25	f	"																		
			" A B	4	"	Iowa																		
			" A Z	2	"	Neb																		
			" (J A Z)	(1)	"	"																		
			E R	(1)	m	"																		
			(blank)	(1)	f	"																		
			(Z)	"	"	Kan																		
Transcribed, 9-8-86, e.e.b.																						This record was garbled by the enumerator and hardly legible.		

1 2 3 4 5 6 7 8 9 10 11 12 13 14 1516171819202122 23 24

X = Illiteracy - can not read or write

YOUNG MAN SHOT
IN BACK AFTER
DANCE THIS A.M.

JOSE RADRES AND PEDRO, MEX-
ICANS, WANTED FOR SHOOT-
ING BY THE POLICE

Ernest Ward, nineteen years old son of Charles Ward, teamster of this city, was found dead upon West Eighth street this morning at 7:30 by workmen going to the railroad yards. He had a bullet wound from a 32 calibre gun in his back. He was lying in a pool of blood by the side of the road.

The shooting occurred about 3:00 o'clock this morning in front of the home of Mrs. Ina Richards upon West Eighth street, where a house dance was in progress, which was attended by Mexican and white people.

The shooting occurred after the boys had had trouble with several of the Mexicans over their white partners.

The story of the trouble and shooting as told by Ray Walker is as follows:

Alfred Conley, Ray Walker and Ernest Ward had gone to the dance and were dancing. near the time for the dance to break up Jose Radres, Mexican, wanted to take Florence Booz, a white girl, home. Conley objected to this, and he and Jose went outside where Conley knocked Jose down. The two other boys arriving outside of the house just as the close of the fight. The trio then seeing that trouble was apparent, decided to go home. Ward and Walker returned in the house to get Ward's coat. when they left, Walker left by the back door and Ward the front. Walker said that when he went through the door, that three Mexicans attempted to stop him, but he told them that

he was not the man who had been doing the fighting and he turned and ran. Immediately he heard three shots fired and he continued to run, going to his home immediately, not returning to find out the fortunes of his companions. Walker stated that two Mexicans were in the front of the house, Jose Radres and a Mexican who was called Pedro.

Walker stated that at the time of the fighting that one of the Mexicans had a gun, and a number had been drinking.

A trail blood from in front of the Richards home to where Ward was found dead showed this morning.

Ernest Ward was living with his mother, Mrs. John Cheevers.

Jose Radres, the Mexican with whom Conley had the trouble, is well known in North Platte, having been an auto salesman working for different firms selling second hand automobiles to Mexicans. Pedro was said to be a farmer living west of Hershey.

When Ward was found this morning he had the pink ribbon pinned upon his coat, showing that he had paid his admission into the dance.

The course of the bullet was probed this morning by M. J. (F)orbes, the bullet, a 32 soft nosed cartridge, taking a course from under the arm to under the chest.

Two Mexican youths were questioned this morning by the officers but were released after they had told little of the trouble and the remaining two of the trio had told of seeing them in the house, just previous to the shooting.

NORTH PLATTE TELEGRAPH,
March 5, 1926

Friday,
e.e.b., 1986

PEDRO, WANTED
MEXICAN, IS AR-
RESTED SUNDAY

HE DENIES HE WAS IN NORTH
PLATTE THE NIGHT OF THE
DANCE BUT IDENTIFIED
AS THERE

Pedro Lavaza, who with Jose Radres, is wanted in connection with the murder of Ernest Ward, the morning of last Friday, was arrested Sunday afternoon at his farm, near the Nichols school house, where he was with his family and three Mexican men. Two shot guns and a small pistol were taken from the house when Lavaza was arrested, although Lavaza made no effort to resist the officers.

Lavaza declared that he was not in North Platte upon the night of the trouble and that he had not been near the dance, but he was identified by Conley and Walker as having been at the dance and also Mrs. Richards, who conducted the dance identified the Mexican as having been present.

No trace of Jose Radres with whom Conley had the fight has been found.

The police are throwing more light upon the death of the young man. They have traced the ownership of a 32 gun to which is thought to have killed Ward, to Dick Childs who has stated to the police that the Mexican obtained the gun off of him just previous to

the shooting. He claims that they stole the gun from him, when they visited him at the Hattie Marsh house just previous to the shooting. He later went to the Richards home where he got the gun back again. Child's gun being a 32-20, which Sheriff Berthe declares can shoot a 32 cartridge, similar to what killed Ward.

The police have advanced the theory that there were two fights between the boys and the Mexicans, the first in which Conley knocked Jose Radres down, and the second, in which Ward was killed as the Mexicans visited the Hattie Marsh home upon two occasions and washed up, presumably after fights. Pedro having a large scar across his face, which he received in the second fight.

A complete list of those who attended the Mexican dance has been obtained by County Attorney Jones and many have been called as witnesses for the inquest which will be held this afternoon in the district court room of the court house.

NORTH PLATTE TELEGRAPH, Thursday,
March 11, 1926 e. e. b., 1986

ALLEGED MURDERER
OF ERNEST WARD
TAKEN THIS NOON

SHERIFF BERTHE SURPRISED
WANTED MEXICAN IN A
SHACK AT SARBEN

Jose Radres, wanted as the murderer of Ernest Ward, was taken into custody by Sheriff Berthe this noon at Sarben, Neb., where Radres was hid in a Mexican beet worker's shack. He was taken without a struggle and when arrested did not have a weapon upon him. He refused to answer all questions and was brought at once to the North Platte jail.

The arrest of Radres came after an all night search near Sarben by Sheriff Berthe and Chief Garman, where they uncovered a clue which declared that Radres had taken breakfast at a Mexican house near Sarben yesterday morning and that he was headed west. Sheriff Berthe

JOSE RADES (sic)
(photo was inserted here)

took up the chase with Union Pacific Officer Frohm this morning and at noon found Radres secreted in a Mexican shack.

The officers have been maintaining a tireless search for Radres since the night of the murder of Ernest Ward (sic) and had warned officers over the entire west of the murder and gave them Radres' description. Radres has a bad record behind him and carried three bullet wounds telling of his former troubles. He has a bullet wound through the stomach, one through the cheek which knocked teeth out of both sides of his face and the third wound through the wrist. Radres is a talented musician, playing all Mexican string instruments.

Radres was out of money and was traveling slow, according to the officers, receiving help from friends as he worked west.

DICK CHILDS IS
ARRESTED AS
AN ACCESSORY

RADRES DENIES KNOWING
ANYTHING ABOUT THE
SHOOTING BUT HAD
A 32-20 REVOLVER

Jose Radres who is charged with first degree murder for the death of Ernest Ward, a week ago Friday morning, talked to the authorities yesterday afternoon following his arrest at Sarben Friday noon. Radres admitted being at the dance, possession of a 32-20 calibre revolver, similar to the one which caused Ward's death but denied knowing anything about the killing.

Dick Childs was arrested yesterday following the apprehension of Radres and is being held at the Lexington jail upon a charge of being an accessory after the fact.

Radres told the following story of the shooting and his efforts to escape to County Attorney Jones who questioned him yesterday afternoon. Radres stated that he was at the dance at the Ina Richards home upon Friday evening in company with other Mexicans and that during that time he made two trips to the home of Hattie Marsh, a neighbor, where Dick Childs was visiting. He stated that about 12 o'clock, he wanted to take Florence Booz to her home at A. W. Hudson's the girl's father, and that two other Mexicans also wished to take her home. He argued with the two Mexicans at the door of the dance and a white boy told them to leave the girl alone. He returned to the home with the white boy and stated to the white boy immediately afterwards to come outside as he wanted to talk with him. He declared that he was not mad at the boy, meaning Alfred Conley, but when he got outside, something struck him and knocked him unconscious. He then

went to the home of Hattie Marsh and washed his face which was bloody. While there, he obtained a revolver from under a pillow case in the bedroom. He took the revolver because Hattie Marsh was afraid that Dick Childs who was mad at some one whom he said he did not know, would get the gun and shoot him. He then with Dick Childs returned to the dance and while there lost the gun. Immediately after the shooting he went to the home of Hattie Marsh where Dick Childs and two other Mexicans took him to the Pedro Lavaza home near Nichols. They immediately left him and he remained in hiding there for several days. He stated that Pedro told him the next day that he had found his gun and had left it with friends in North Platte. After hiding at the Lavaza home for several days he went to Hershey where he stayed for three days and then went to Sarben where he was arrested.

When Sheriff Berthe arrested him he was staying with a Mexican family in a beet worker's shack.

When questioned more closely about the shooting he declared he remembered very little after he was struck at the dance until they took him out of town.

Dick Childs was taken into custody immediately after Radres told his story and denied aiding the Mexican to escape and any knowledge of the shooting except the theft of his gun. He was taken to Lexington where he will have no chance to communicate with either of the Mexicans who are kept separated at the county jail. The authorities sent for Hattie Marsh who has been at Lexington and will question her this afternoon. She stated this morning that she was ready to tell all she knew concerning the shooting.

CORONER'S JURY
ORDERS PAIR OF
MEXICANS HELD

JOSE RADRES CHARGED WITH
FIRST DEGREE MURDER-
PEDRO LAVAZA WITH
AIDING

After listening to the story told of the Mexican dance and the trouble leading up to the fatal shooting upon the morning of last Friday when Ernest Ward, Local 19 year old youth was murdered upon West Eighth street, the jury drew a decree in which they charged Jose Radres, the Mexican auto salesman, with the murder of the boy, and Pedro Lavaza was ordered held up on a charge of aiding and abetting.

A list of witnesses which included all who attended the dance at the Ina Richards home upon Thursday evening and Friday morning took up the time of the jury until a late hour last evening. The inquest was held in the privacy of County Attorney Jones' office and the witnesses were allowed to testify alone.

Pedro Lavaza is being held in the county jail since his capture Sunday and the officers are following all clues down to capture Jose Radres.

Conley, Walker and Mrs. Richards who have been held as witnesses were given their liberty yesterday following the inquest.

NORTH PLATTE TELEGRAPH, Thursday,
March 18, 1926 e.e.b., 1986

COMPLAINT filed March 10, 1926, as follows:

IN THE COUNTY COURT IN AND FOR LINCOLN COUNTY, NEBRASKA,

The State of Nebraska,
Plaintiff,

vs.

Jesse Rades (Jesse Rodrigues)
and Pete Flowers,
Defendants.

COMPLAINT FOR FIRST DEGREE MURDER

Wells C. Jones, the duly elected, qualified and acting County Attorney of Lincoln County, Nebraska, prosecuting pursuant to law, in the name of and for the State of Nebraska, plaintiff, makes complaint and information to the County Court of Lincoln County, Nebraska, as follows:

In Lincoln County, Nebraska, March 5th, 1926, Jesse Rades and Pete Flowers, defendants, feloniously, purposely and of their deliberate and premeditated malice, shot one Ernest H. Ward, with a revolver, and as a result thereof, he, the said Ernest H. Ward, died March 5th, 1926. Defendants thus committed murder in the first degree.

Wells C. Jones
County Attorney of Lincoln County,
Nebraska.

State of Nebraska, }
Lincoln County. } ss.

Wells C. Jones, being first duly sworn, according to law, says the facts stated in his foregoing complaint and information are true as he verily believes.

Wells C. Jones,
County Attorney of Lincoln County, Nebraska.

Subscribed in my presence and sworn to before me this 10th day of March, 1926.
(SEAL)

A. F. Straits, County Judge.

Thereupon warrant issued and was delivered to the Sheriff for service, who on March 10, 1926, returned the same, endorsed as follows:

State of Nebraska, }
County of Lincoln. } ss.

Received this warrant March 10, 1926, and pursuant to the command thereof, I arrested the within named Jesse Rades and Pete Flowers, and now have his body before the court.

Dated this 10 day of March, 1926.

L. L. Berthe, Sheriff.

JUDGMENT filed March 19, 1936, as follows:

IN THE COUNTY COURT OF LINCOLN COUNTY, NEBRASKA.

State of Nebraska,

vs.

Jose Rades (Jose Rodriguez)
and Pete Flewren.

JUDGMENT.
FIRST DEGREE MURDER.

Now on this 19th day of March, 1936, this matter comes on to be heard upon preliminary examination. State represented by County Attorney, Wella C. Jones. Jose Rades appeared in court without counsel, Jose Garcia acting as interpreter.

County Attorney Jones asked permission of the Court to amend the original complaint, to read Jose Rodriguez instead of Jose Rades and to dismiss the complaint as to Pete Flewren.

The court being fully advised in the premises, grants both the amendment and the dismissal.

Defendant, Jose Rodriguez, waived reading of the complaint and preliminary hearing, and pleaded not guilty.

Wherefore, the court being fully advised, has probable cause to believe that the crime of first degree murder was committed, and that Jose Rodriguez committed said crime in manner and form as alleged in the complaint.

IT IS THEREFORE CONSIDERED AND ORDERED THAT defendant, Jose Rodriguez be held without call, ^{for trial} to the District Court of Lincoln County, Nebraska, at the first day of the next jury term thereof.

(SRAL)

A. F. Streets,
County Judge.

State of Nebraska, }
Lincoln County. } ss.

I, A. F. Streets, County Judge in and for said County and State, do hereby certify that the foregoing is a true and correct transcript of the proceedings had in the above entitled case, as fully and completely as the same appears of record in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said court, this 19th day of March, 1936.

A. F. Streets,
County Judge.



IN THE DISTRICT COURT IN AND FOR LINCOLN COUNTY, NEBRASKA.

THE STATE OF NEBRASKA,
Plaintiff,
-vs-
JOSE RODRIGUEZ,
Defendant.

INFORMATION FOR FIRST DEGREE
MURDER .

Wells C. Jones, the duly elected, qualified and acting County Attorney of Lincoln County, Nebraska, prosecuting pursuant to law in the name of and for the State of Nebraska, plaintiff, makes complaint and information to the District Court of Lincoln County, Nebraska, as follows:

In Lincoln County, Nebraska, March 5th, 1926, Jose Rodriguez, defendant, feloniously, purposely and of his deliberate and premeditated malice, shot one Ernest H. Ward, with a revolver, and as a result thereof he the said Ernest H. Ward died March 5th, 1926. Defendant thus committed murder in the first degree.

Wells C. Jones
County Attorney of Lincoln County,
Nebraska .

State of Nebraska, }
Lincoln County. } ss.

Wells C. Jones, being first duly sworn according to law, says the facts stated in his foregoing complaint and information are true as he verily believes.

Wells C. Jones
County Attorney of Lincoln County,
Nebraska.

Subscribed in my presence and sworn to before me
this 20 day of March, 1926.

John W. ...
Notary Public

IN THE DISTRICT COURT OF LINCOLN COUNTY, NEBRASKA.

State of Nebraska

Plaintiff,

-vs-

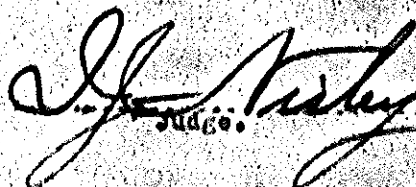
8348

Jose Rades (Jose Rodriguez)
et al.

Defendants,

Now on this 20th day of March 1926,
being one of the days of the Regular January 1926 Term of
the District Court, comes Wella C. Jones, County Attorney,
who prosecutes in the name and on behalf of the State of
Nebraska, also comes the defendant, Jose Rades (Jose Rodriguez)
into open court. Complaint is read to the Defendant and is
ask what he has to say in regard thereto and the Defendant
states that he is guilty as alleged in the complaint of murder.
The Defendant is ask what reason, if any, he has to offer why
sentence should not be pronounced, and no reason is given.

IT IS THEREFORE ORDERED, ADJUDGED AND
DECREED BY THE COURT that the defendant Jose Rades (Jose Rodriguez)
be confined in the State Penitentiary at Lincoln Nebraska, for
life at hard labor, Sundays and holidays excepted, to which rul-
ing of the court the defendant excepts.


Judge.

IN THE DISTRICT COURT, LINCOLN COUNTY, NEBRASKA

STATE OF NEBRASKA

FILED

MOTION

vs.

JOSÉ F. RODRIGUEZ

NOV 1 1951
W. J. York
CLERK DISTRICT COURT

Criminal #8348

By _____
DEPUTY

Comes now José F. Rodriguez, the above named defendant and allegent

1. That he is a prisoner in the Davis County Jail at Farmington, Utah and is being held pending extradition to the State of Nebraska.

2. That he was arrested on a Complaint of First Degree Murder on March 19, 1926 in Lincoln County, Nebraska and on said date a Preliminary Hearing was held in the County Court of Lincoln County, Nebraska and defendant-affiant was ordered held without bail for trial to the District Court.

3. That an Information for First Degree Murder against defendant was filed on March 20, 1926, in the District Court of Lincoln County, Nebraska and on said date defendant-affiant was sentenced to be confined in the State Penitentiary at Lincoln, Nebraska for life at hard labor, Sundays and holidays, excepted, to which ruling of the Court the defendant excepted.

4. Defendant-affiant claims the right to be released from custody and said sentence on the ground there was such a denial or infringement of his rights to render the judgment void or voidable under the Constitution of the State of Nebraska or the Constitution of the United States.

5. Defendant-affiant submits herewith photo copies of the Court Record which show:

(a). That defendant was not represented by legal counsel during any of the aforementioned proceedings.

(b). That he did not speak the English language and did not have an interpreter to translate the proceedings in the District

Court and did not understand the nature of the proceedings against him.

(c) That the record of proceedings in the District Court is conflicting in that said record states that the defendant stated "he was guilty as charged" but the record shows that "defendant excepted to the judgment of the court."

(d) That the court record of the Preliminary Hearing shows the defendant was not represented by legal counsel and although the record shows that one Jose Garcia acted as interpreter the record does not show that the interpreter was qualified to so act nor that he took the oath required of an interpreter.

(e) The record shows a violation of the Nebraska Code Title 29-18-02 which required that no Hearing on either the Complaint or the Information could be held less than 24 hours thereafter without the assent of the defendant, and the record does not show that defendant waived the requirements of that rule, nor that he assented to said Hearing within 24 hours.

6. Defendant-affiant further alleges that he was not represented by legal counsel during any of the proceedings against him during the month of March, 1926; was not advised of his right to legal counsel nor of any of his constitutional rights; did not understand the nature of the proceedings against him and did not at any time state that he was "guilty" as alleged in the Complaint of murder and refutes and denies the record of the District Court proceeding which states to the contrary.

7. Defendant-affiant alleges that he has never understood the reason why he was incarcerated because he has always maintained his innocence; has never admitted guilt; no trial was ever held; and states that at the time an interpreter was available he (defendant) stated to the interpreter that he was not guilty of any offense but that because of his inability to speak and understand the English language that he does not know how his statements and testimony were translated from the Spanish to the English language.

8. That pursuant to the Judgment of the District Court the defendant-affiant served approximately thirteen years in the Nebraska Penal Colony and is now awaiting extradition from Utah to Nebraska to finish serving the term of Life Imprisonment.

9. That the failure to advise defendant of his right to legal counsel and the failure of the Court to appoint legal Counsel to represent him and to properly advise him, through an interpreter, of his rights and of the nature of the proceedings against him were such a denial and infringement of defendant's constitutional rights that the Judgment heretofore rendered on March 20, 1926 should be declared void.

WHEREFORE, defendant-affiant, moves the Court for an order setting aside and vacating the Judgment heretofore entered by the Court on March 20, 1926 and that the prisoner-defendant-affiant be discharged forthwith.

Jose V. Rodriguez
Jose V. Rodriguez

*Approved, Exaltado Rodriguez
attorney for Jose V. Rodriguez
1111 1/2 Adams Bldg
Salt Lake City, Utah*

IN THE DISTRICT COURT IN AND FOR LINCOLN COUNTY, NEBRASKA

Case No. 49-25, 1968-4-49-413

THE STATE OF NEBRASKA,)
)
 Plaintiff,)
)
 vs.)
)
 JOSE F. RODRIGUEZ a/k/a)
 JOSE RADES,)
)
 Defendant.)

Case No. W-8348 Doc 2 Page 39

FILED

ORDER JAN 24 1968

W. J. Beth
 CLERK DISTRICT COURT
 By *W. J. Beth*
 DEPUTY

NOW ON this 22nd day of January, 1968, the same being one of the regular days of the January, 1968 term of this court, this matter came on for hearing upon the Verified Motion of the defendant, with the State of Nebraska appearing by its attorney, W. R. Mullikin, the County Attorney for Lincoln County, Nebraska, and the defendant represented by his attorney, Maxwell Bentley, of Salt Lake City, Utah. Upon motion of the County Attorney, Maxwell Bentley was admitted to practice law in the State of Nebraska for this case only. Upon motion of Maxwell Bentley, Mr. Donald Pederson of the law firm of MURPHY, PEDERSON and PICCOLO of North Platte was also permitted to represent the defendant.

The parties announced they were ready for a hearing upon the defendant's Verified Motion. The defendant argued in support of his motion and rested.

The State of Nebraska called a witness, who was sworn and testified. The State rested.

At the conclusion of all the evidence, the case was argued to the court by the attorneys for the parties.

Upon consideration of the record and the evidence, the Court, being duly advised in the premises, finds that:

1. The defendant was arraigned and entered his plea of guilty in the Lincoln County District Court within 24 hours after the service of the information and that the record does not disclose that the defendant waived the 24 hour notice:
2. The defendant entered his plea of guilty to first degree murder

and the presiding judge fixed the sentence of life imprisonment and the records do not disclose that a jury was called in the case and that the Court invaded the province of the jury in fixing the penalty. (Wilson v. State, 222 NW 47).

The Court further finds that the foregoing were material defects and that the defendant, Jose F. Rodriguez a/k/a Jose Rades, did not receive the protection guaranteed an accused by our Statutes and the Constitution of this State and that there was such a denial or infringement of the rights of the defendant to render the judgment of conviction and sentence of the defendant, Jose F. Rodriguez a/k/a Jose Rades, void under the Constitution of this State and that as a result the judgment of conviction and sentence should be vacated and set aside.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that the Verified Motion of the defendant, Jose F. Rodriguez a/k/a Jose Rades, be and the same is hereby sustained.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT that the judgment of conviction and sentence of the defendant, Jose F. Rodriguez a/k/a Jose Rades, entered on the 20th day of March, 1926 be and the same is hereby vacated and set aside.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT that the costs of this proceeding be taxed to the State of Nebraska.

DATED: January 24, 1968.

BY THE COURT:



District Judge

1870 CENSUS — UNITED STATES

SCHEDULE 1. — Inhabitants in _____ (Not recorded) _____, in the County of Lancaster, State of Nebraska, enumerated by me on the 22 & 23^d day of August, 1870

Line No. on page	Dwelling house Number	Family Number	The name of every person whose place of abode on the first day of June 1870, was in this family.	Age last birthday	Sex	Color	Profession, occupation, or trade of each person, male or female.	Value of Real Estate owned	Value of Personal Estate	Place of birth	Father was Foreign born	Mother was Foreign born	Month if born w/in census yr.	No. it married w/in census yr.	Attended School within the year	Cannot read	Whether deaf and dumb, blind, insane or idiotic	Male citizen 21 yrs. & up	Male citizen 21 yrs. & up
11	799	799	Burton, Amos	40	M	W	Farmer	8000	900	Kentucky									/
12			— Levina	33	F	W	K. House			Indiana					n/r				
13			— Albert	9	M	W				Iowa									
14			— Genevra	7	F	W				Do					n/r				
15			— Della	5	F	W				Do									
16			— John	2	M	W				Nebraska									
17			— Daniel	7/12	M	W				Do			Oct						
18			Reemer, Jeremiah	20	M	W	Works on Farm	1000		Pennsylvania									
19			Smith, Diadena	29	F	W	School Teacher	1000	175	Indiana									

Post Office: Lincoln J. Cadman, Ass't Marshal

1880 CENSUS — UNITED STATES

Supervisor's Dist. No. 1
 Enumeration Dist. No. 234
 SCHEDULE 1. Inhabitants in Waverly Township, in the County of Lancaster, State of Nebraska

enumerated by me on the 4th to 9th day of June, 1880

P. H. Walker
 Enumerator

Name of Street	Dwelling Number	Family Number	Names	Color	Sex	Age prior to June 1st	Month of birth if born in census yr.	Relationship to head of house	Single	Married	Divorced, D	Married in census yr.	Profession, Occupation or Trade	No. of months unemployed	Health Inform. No.	Attended School	Cannot read	Cannot write	Place of birth	Place of birth of father	Place of birth of mother
	41	41	BURTON, Amos	W	M	50					/		Farmer						Ky	Ky	Ky
			— Albert	W	M	19		Son	/				Farmer						Iowa	Ky	Ind
			— Geneva	W	F	17		Daughter	/				Keeping House						Iowa	Ky	Ind
			— Della	W	F	15		Daughter	/				at School			/			Iowa	Ky	Ind
			— John	W	M	12		Son					"			/			Nebraska	Ky	Ind
			— Daniel	W	M	10		Son					"			/			Nebraska	Ky	Ind
			— Harvey	W	M	7		Son					"			/			Nebraska	Ky	Ind

Health Information Item Numbers: 15 - Sick or temporarily disabled; 16 - Blind; 17 - Deaf & dumb; 18 - Idiotic; 19 - Insane; 20 - Maimed or crippled

Microfilm
Roll No. 932

1900 CENSUS

State NEBRASKA

Town/Township MEDICINE PRECINCT

Supv. Dist. No. 6 Sheet No. 3

Country LINCOLN

Hezekiah W. Davis, Enumerator Date 6th June, 1900

Enum. Dist. No. 146 Page No. 201 B

LOCATION			NAME of each person whose place of abode on June 1, 1900, was in this family	Relation to head of family	PERSONAL DESCRIPTION								NATIVITY				CITIZENSHIP				OCCUPATION				EDUCATION				No of Farm Schedule						
Street	House No.	Dwelling No.			Family No.	Color	Sex	Month of birth	Year of birth	Age	Single, married, widowed, divorced	No. of years married	Mother of how many children	Number of these children living	Place of birth	Place of birth of father	Place of birth of mother	Year of immigration to U.S.	No. of years in U.S.	Naturalization	Occupation	No. of months not employed at school	Attended school (months)	Can read	Can write	Can speak English	Home owned or rented	Home owned free or mortgaged	Farm or house	1	2	3			
	55	57	BURTEN, Albert C.	Head	W	M	Oct	1860	39	Wid	19		Iowa	Ken- tucky	Indi- ana				Farmer			Yes	Yes	Yes	0	0	0								
			Stella V.		W	F	Sep	1883	18	S			Nebr.	Ind.	Iowa							Yes	Yes	Yes											
			Harry D.	Son	W	M	Jul	1883	16	S			Nebr.	Ind.	Iowa				At School	4		Yes	Yes	Yes											
			Orsen A. C.	Son	W	M	Mar	1886	14	S			Nebr.	Ind.	Iowa				At School	0		Yes	Yes	Yes											
			Ethel E.	Daughter	W	F	Apr	1891	8	S			Nebr.	Ind.	Iowa				At School	0		Yes	Yes	Yes											
			William T.	Son	W	M	Aug	1891	8	S			Nebr.	Ind.	Iowa				At School	0		Yes	Yes	Yes											
																		Transcribed from the film by Edw Bartlett, 4-4-36																	