



# HISTORICAL SOCIETY *of the* NEW YORK COURTS

## History of Orleans County

### Bench and Bar



Hon. Sanford A. Church

Historical Society of the New York Courts  
Orleans County Legal History

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## **I. Meet Orleans County, New York**

### **a. Overview**

Orleans County is located in Western New York on the south shore of Lake Ontario. Niagara County lies to the west, Genesee County to the south, and Monroe County to the east. Orleans County contains 817 square miles. Over half of the County is water in Lake Ontario owing to its northern boundary being the Canadian border in the lake.

Native Americans were the only known inhabitants of the land that would become Orleans County until the nineteenth century. In the late eighteenth century, Massachusetts, New York, and the Iroquois Tribes all claimed ownership of the area. By 1797, a group known as the Holland Land Company had been granted the land by Massachusetts, New York, and the Iroquois Tribes.

The Holland Land Company surveyed their lands and began selling lots in 1801. Settlers, mostly New Yorkers from the east and New Englanders, purchased land in what would become Orleans County, and the population grew. The settlers used the land primarily for farming.

As Americans kept expanding west, planning began for the Erie Canal in 1817. The canal would pass through Orleans County on its way to Buffalo. News of the Erie Canal passing through the area further encouraged population growth. Irish, Italian, and Polish immigrants in particular moved into farm or work on the canal or in stone quarries.

Medina sandstone was discovered when the canal was built, and numerous commercial stone quarries operated in the County for years. Medina sandstone was used to construct buildings in Orleans County and beyond. Examples of its use beyond Orleans County include the pillars of the Brooklyn, George Washington, and Williamsburg Bridges in New York City, the steps of the state capital in Albany, the federal building in Rochester, and the breakwall in Buffalo. Over time, however, the demand for Medina sandstone waned, and the quarries closed.

Agriculture remains important to the Orleans County economy. Ownership of farms has evolved from small family farms to large commercial operations. As a result, there are significantly fewer small farms in the County than there were in the mid-twentieth century.

### **b. Legal Formation and Naming of Orleans County**

Originally part of Genesee County, state legislation passed on November 12, 1824, initially authorized creating a new county to the north effective January 1, 1826. Shortly after that legislation passed, however, representatives from the new county asked that the effective date be earlier to allow official acts such as elections to occur before the January 1 date. The state legislature agreed, amending the legislation to make the county's official creation date to be April 15, 1825. As a result, Orleans County formally became a separate entity in 1825.

Much debate surrounded choosing the new county's name. The debate stemmed primarily from the closely contested 1824 United States presidential election. There were four primary candidates: John Quincy Adams; Andrew Jackson; William Crawford; and Henry Clay. Jackson received the most popular and electoral college votes but not the majority of the electoral college votes needed to win the election outright. Adams prevailed in the contingent election in the House of Representatives when Clay asked his supporters to vote for Adams.

As a result, the debate was initially between for the names Adams and Jackson. In the midst of the debate Nehemiah Ingersoll insisted Orleans be used. Ingersoll was a prosperous landowner who had moved from Dutchess County to Elba in Genesee County and to Newport (now Albion) in the new county.

As discussed below (see page 5), Ingersoll was willing to provide the land for a Courthouse Square in Albion. He conditioned his gift on the county being named Orleans. The reasons for Ingersoll's name choice are unknown. The choice may have been inspired by either the House of Orleans rulers in France or, more likely, America's success in the Battle of New Orleans during the War of 1812.

There are no cities in Orleans County. There are four villages: Albion, Holley, Lyndonville, and Medina. There are ten towns: Albion, Barre, Carlton, Clarendon, Gaines, Kendall, Murray, Ridgeway, Shelby, and Yates.

Orleans County government was run by a Board of Supervisors until 1980. Each town had a Supervisor who sat on the County Board. This county government left residents of more populated areas underrepresented on the Board.

New York State and Orleans County addressed the under-representation in 1980 by changing the governing body. Orleans County is now governed by a seven-member elected legislature. The seven elected legislators represent districts rather than towns.

### **c. Timeline**

- 1797: Holland Land Company acquires ownership rights from New York, Massachusetts, and Iroquois.
- 1801: Holland Land Company surveys lands west at Genesee River and begins selling lots.
- pre-1803: Native Americans (Six Nations) primary inhabitants.
- 1817-25: Erie Canal built connecting Hudson River to Great Lakes.
- 1824: Medina Sandstone discovered during Erie Canal construction.
- 1824: State legislature authorizes creating Orleans County.
- April 15, 1825: Orleans County becomes legal entity separate from Genesee County.
- 1825: Albion named county seat.

- 1825: First judges of County Court, Surrogate's Court, an Eighth Circuit hold court at Branson hotel in Town of Gaines.
- 1827: First courthouse built on courthouse square in Village of Albion.
- 1850: Rochester, Lockport and Niagara Falls Railroad Co. organized, railroad passes through county south of Erie Canal.
- 1857-58: Current Courthouse built by William V. N. Barlow.
- 1980: County government changed to seven-person legislature.
- 2001-03: Courthouse updated with addition and elevator.

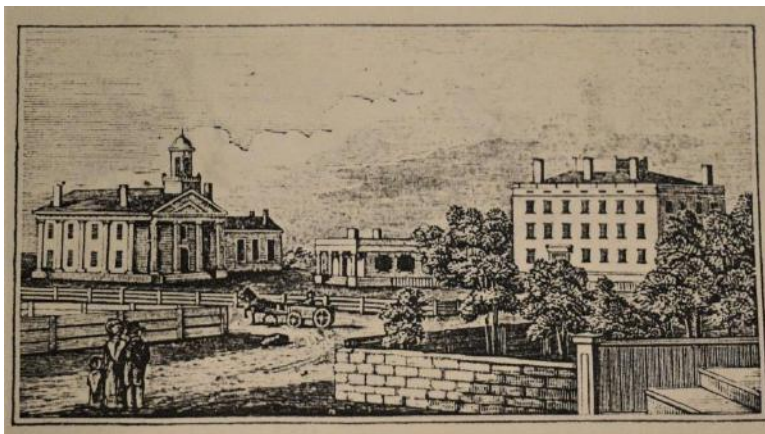
## II. County Courthouses

County level courts in Orleans County have operated in four buildings, only two were actual courthouses.

### a. Branson Property, 1825-27, Town of Gaines

Orleans County's first court sessions were held in the Town of Gaines in 1825. The sessions were held at a hotel owned by Selah Branson.

### b. 1827-58: First Courthouse, Village of Albion



The Town of Gaines and the Village of Albion competed for the county seat. State commissioners visited both and chose Albion. Nehemiah Ingersoll lived in Albion and owned property that was ideal for the center of the Orleans County government,

including a courthouse.

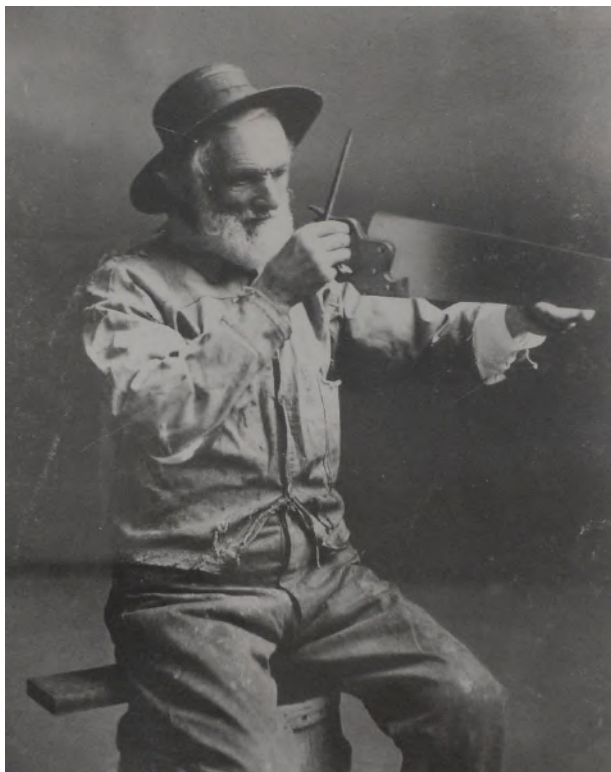
He advocated for the county being named Orleans. As a result of Orleans being chosen as the County's name and Albion becoming the county seat, Mr. Ingersoll provided the land now known as Courthouse Square.

A red brick courthouse was built at Courthouse Square in Albion in 1827 at a cost of \$6,000. The building served as the county courthouse until 1858 and was then razed.

### c. 1858-present: Second and Current Courthouse, Village of Albion

Orleans County had outgrown its courthouse by the 1850s. A committee was appointed to make recommendations for a larger courthouse





and name a builder. That committee named William V. N. Barlow to build the new courthouse at a cost of \$20,000.

After visiting the Wayne County Courthouse in Lyons, New York, the committee and Mr. Barlow decided to pattern the now courthouse after it.

Barlow oversaw construction of the new courthouse in 1857 and 1858. The red brick Greek Revival courthouse stands one hundred feet tall on Albion's original Courthouse Square. The silver dome at the top of

the courthouse is thirty-six feet of the hundred-foot total. Four fifty-foot white exterior columns stand outside the front entrance. Its base is made of sandstone. Its trim is limestone.

In addition to the dome with its cupola, the courthouse has three floors. The top floor features the large original courtroom used for jury trials and other proceedings. The middle floor has a smaller courtroom and offices for court staff. A law library, records storage area, and additional staff offices are in the bottom floor.

The building remains in use today. Minor interior alterations had been made until 2001. As the twenty-first century arrived, the



courthouse needed more space and upgrades such as an elevator.

**d. 2001-2003: Interim Courthouse, Village of Albion**

By 2001, the courthouse desperately needed significant changes. Either a new courthouse needed to be built or major changes needed to be made to the current structure. Led by Hon. James P. Punch, many successfully advocated for making changes to the courthouse in use since 1858 rather than building a new one.

Because the courthouse is in the National Historic Register, approvals had to be obtained to build an addition to the south end of the building. That addition provided the required additional space. The modifications were so time-consuming that the building would not be used again until 2003.

From 2001 until 2003, the old Arnold Gregory Hospital building in Albion served as the courthouse. Since 2003, the Orleans County courts have been back home in the courthouse opened in 1858.

### III. The Bench

A general history of the New York Courts can be found in the Historical Society of the New York Courts website. Not mentioned in that article, counties including Orleans County have had a County Court since at least 1817 and a Family Court since 1962. Lawyers residing in Orleans County have presided in each of those courts.

Below is a list.

#### a. New York Court of Appeals



Judge Sanford E. Church is pictured seated at the center table.

**Church, Sanford E. (1870-80)**-of Albion. Elected Chief Justice from 1870 until his death in 1880. He previously served as Orleans County District Attorney, New York State Assemblyman, Lieutenant Governor, and New

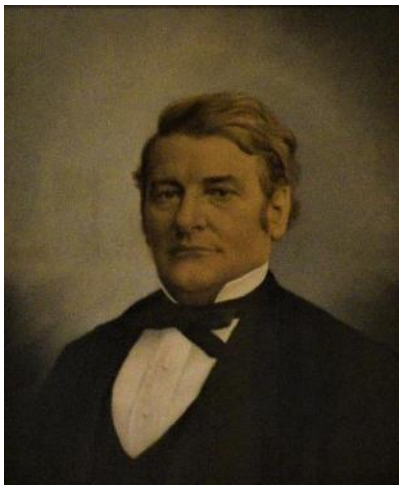
York State Comptroller. An extensive biography of Chief Justice Church can be found at <http://history.nycourts.gov/>.

An update to that biography, great-great-great grandson Hon. Sanford A. Church now serves as County Court (and multi-hat) Judge in Orleans County. His son Sanford B. Church is now a medical doctor, ending a four-generation run of Church lawyers in Orleans County.

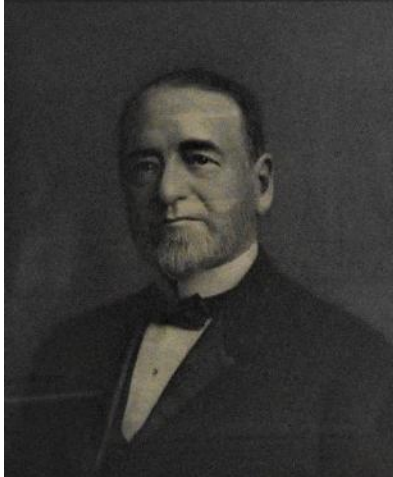
### **b. Court of Claims**

**Ryan, Bernard (1930-61)**-of Albion. Appointed in 1930 by Pres. Franklin D. Roosevelt, retired in 1961 as Presiding Justice. Wounded in the Meuse Argonne Offensive in World War I while serving as a second lieutenant leading a platoon of the 309<sup>th</sup> Regiment, 78<sup>th</sup> Division.

### **c. Supreme Court (Eighth District)**



**Davis, Noah (1857-1868)**-raised in Albion. Also U.S. House of Representatives (1869-70); Supreme Court First Department (1873-87). Presided over William “Boss” Tweed trials in New York City.



**Childs, Henry A. (1884-1906)**-of Medina. Also served as Orleans County District Attorney 1868-77.



**Church, Sanford T. (1928-29)**-of Albion. Appointed by Gov. Alfred E. Smith, grandson of Hon. Sanford E. Church (supra).



**Harcourt, Bertram E. (1940)**-of Medina. Died in 1940 while temporarily assigned to equity actions in Brooklyn's Supreme Court.



**Munson, William H. (1942-56)**-of Medina. Orleans County Court Judge (1941-42). Orleans County District Attorney (1916-24; 1928-40), First President of New York State District Attorney Association.

#### **d. County Court/Surrogate/Family Court (created in 1962)**

Judges were appointed from 1825 through 1846. Beginning in 1847 they were elected. County Court judges also serve as Surrogate. They also serve as Family Court judge since that Court was established in 1962.



Elijah Foot	1825	W. Crawford Ramsdale	1895-1900
Alexis Ward	1830	Edwin B. Simonds	1901-1904
Henry Angevine	1840	Isaac S. Signor	1905-1911
Benjamin Bessac	1844	Fred L. Downs	1912-1918
James Gilson	1846	Gerald B. Fluhrer	1919-1925
Henry R. Curtis	1847-1855	David A. White	1925
Dan H. Cole	1855	Bertram Harcourt	1926-1940
Gideon Hard	1855-1858	David A. White	1940
Arad Thomas	1859-1862	William H. Munson	1941-1942
Edwin R. Reynolds	1863-1866	Daniel W. Hanley Jr.	1942
John G. Sawyer	1867-1882	Charles S. Signor	1943-1950
Isaac S. Signor	1883-1894	Francis A. Sturges	1951-1959

J. Kenneth Serve	1960-1973	James P. Punch	1991-2017
Hamilton Doherty	1974-1977	Sanford A. Church	2018-
Paul I. Miles	1978-1990		



**e. Justice Court**

The Villages and Towns in Orleans County have had as many as twelve Justice Courts. The number has been reduced to eight. First, the Villages of Albion and Medina disbanded their courts leaving ten town courts. Next, the adjacent towns of Ridgeway and Shelby took advantage of Uniform Justice Court Act section 106(a) and consolidated into one court. Finally, the Town of Yates merged with the adjacent Ridgeway-Shelby court to create one court, making a total of eight Justice Courts.



## **IV. The Bar**

### **a. Practice of Law**

Private practices in Orleans County primarily provide real estate, estate, and small business representation. The private practices of law in Orleans County remains exclusively small practice. In fact, the largest private practice are two two-person offices in Medina. In addition, there are two solo practitioners in Holley, two in Albion, and three in Medina.

The largest groups of lawyers in Orleans County are in public offices. District Attorney Joseph V. Cardone has four assistants. Public Defender Joanne L. Best now has six assistants owing to recent state funding to support indigent criminal defense.

### **b. County Bar Association**

The Orleans County Bar Association was formed March 12, 1877. John White, Esq. served as the first president. From its inception, the Bar Association has not met regularly. Meetings are usually called to discuss significant developments in Orleans County court practices or to honor a recently deceased member. Dana Grabar, Esq. is the current president, having served several consecutive terms.

### **c. Female Practitioners**

Women have been in private practice with offices in Orleans County since the 1980s. Two women currently have private practices in Orleans County. Females also serve as County Attorney and Public Defender. Another female is an Assistant District Attorney, and two more are Assistant Public Defenders. A woman serves as Court Attorney.

### **d. Attorneys of Color**

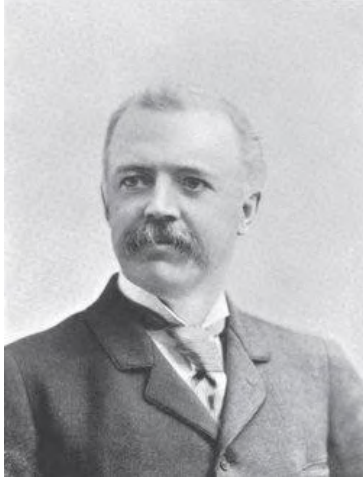
No attorneys of color have offices in Orleans County.

### e. District Attorneys

Orange Butler	1825	Edwin B. Simonds	1892
George W. Fleming	1828	Thomas A. Kirby	1898
Henry R. Curtis	1831	Leon M. Sherwood	1901
George W. Flemming	1832	W. Crawford Ramsdale	1907
Henry R. Curtis	1833	John C. Knickerbocker	1910
Sanford E. Church	1846	William H. Munson	1916
William K. McAllister	1850	Gordon H. Payne	1925
Benjamin L. Bessac	1853	William H. Munson	1928
Henry D. Tucker	1856	Russell Scharping	1940
John W. Graves	1859	J. Kenneth Serve	1943
John G. Sawyer	1862	Franklin B. Cropsey	1959
Irving M. Thompson	1865	Hamilton Doherty	1963
Henry A. Childs	1868	Curtis L. Lyman	1974
Charles A. Keller	1877	James P. Punch	1985
Isaac S. Signor	1880	Conrad F. Cropsey	1990
Clark D. Knapp	1883	Joseph V. Cardone	1992
William P.L. Stafford	1886		

### f. Attorneys of Note:

**Cropsey, Franklin B. (1908-1985)**-of Albion. Assisted prosecutors in Nuremberg trials with pretrial investigation and attending proceedings in Germany, author of “Cropsey’s Manual of Procedure Before Magistrates” (1950); District Attorney (1959-62); Practiced until death with son Conrad who continues to practice in Albion.



**Cunneen, John (1848-1907)**-of Albion. Immigrated from Ireland at the age of 14, worked from farm boy to schoolteacher to lawyer, became U.S. citizen in Orleans County Court in 1868, served as New York State Attorney General 1903-04.

**Munson, William (1886-1968)**-of Medina. Elected Orleans County District Attorney twice in 1916 and 1928; first president of the New York State Association of District Attorneys; Orleans County Court Judge 1941. Eighth District Supreme Court Justice (1942-56).

## V. Cases of Note

### a. **People v. Mather, Downer: Disappearance of William Morgan Leading to First Third Party**

The Anti-Masonic Party (approximately 1826-1840) was the first “third party” in American politics. The disappearance of William Morgan in Western New York spurred its formation.

William Morgan was a Mason who threatened to publish a book, *The Illustration of Masonry*, disclosing the practices of the “secret society.” Basically, many Masons were involved in transporting Mr. Morgan from Canandaigua to Fort Niagara in 1826 before he disappeared. The Masons used seven teams of horses, three different carriages, five drivers, and an unknown number of additional men who assisted.

Mr. Morgan was never seen again after he left Fort Niagara with several Masons. Anti-Mason foment grew as the public became frustrated with the inability of the judicial system to punish those involved in his disappearance. Twenty Grand Juries investigated the disappearance, and fifteen trials were held. Two defendants were prosecuted in Orleans County.

The Masons took Mr. Morgan along Ridge Road in Orleans County from Canandaigua to Fort Niagara. Elihu Mather drove one of the carriages in Orleans County. In 1829, he was acquitted of kidnapping at the end of a ten-day trial in Albion.

The prosecution indicted another Mason, Avery Downer, but then voluntarily dismissed the indictment (*nolle prosequi*). A third Mason, Isaac Allen, spent a few days in jail for refusing to answer a Grand Jury’s questions.

Much has been written about the “William Morgan Affair” and the subsequent anti-Masonic movement.<sup>1</sup>

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<sup>1</sup> See, e.g., Walton, William Morgan *The Disappearance of an Anti-Mason*, <https://www.geriwalton.com/william-morgan-the-disappearance-of-an-anti-mason/>.

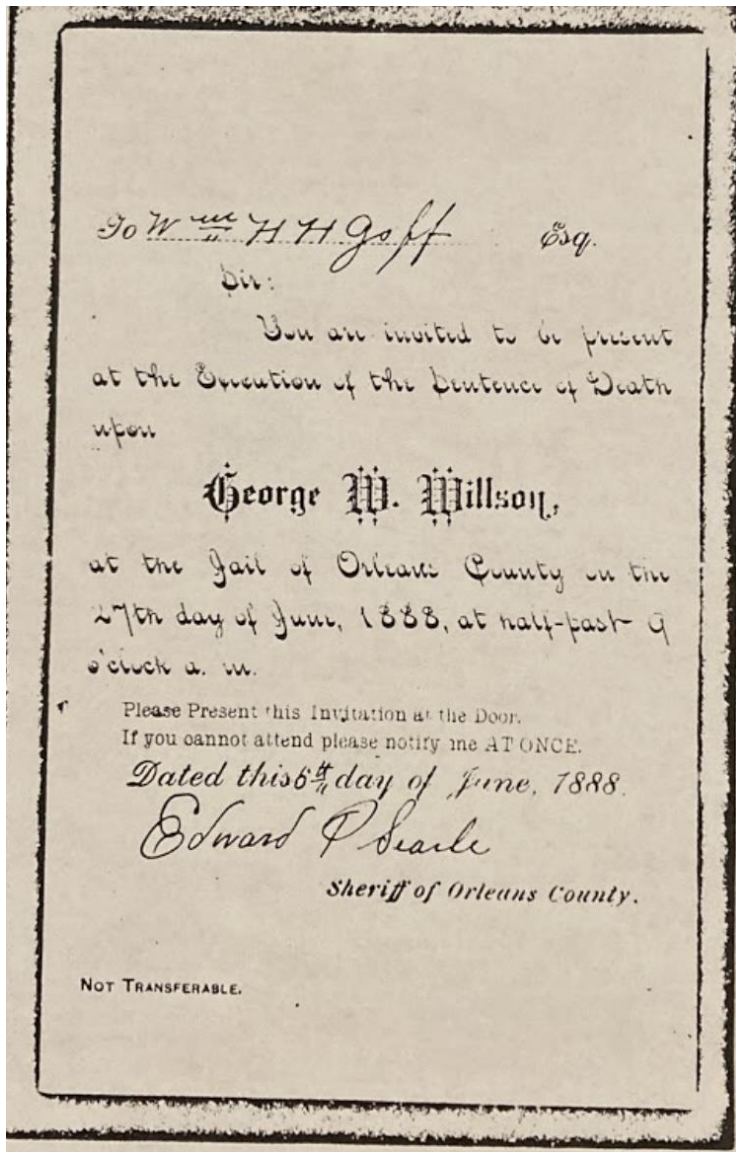
## **b. People v. Willson: Orleans County's Only Hanging**

Alice Willson was found dead in her bed January 19, 1887. A towel had been wrapped around her external passages and asphyxiated her. A Grand Jury indicted Alice's husband, George Willson, for murder in the first degree.

Turns out George was known for seeing young women and Alice had written her father of the most recent girl complaining.

A jury convicted George July 14, 1887 in Orleans County Supreme Court. He was sentenced the next day to be hanged. He was hanged June 27, 1888.

The gallows and a man to assemble it outside the courthouse were rented from Erie County. State law precluded public execution. A high board fence blocked outside viewing. Attendance was by invitation only.



The twelve trial jurors, two clergymen, two physicians, the sheriff and undersheriff, six deputies, the county court judge, the County Clerk, the District Attorney, and members of the press were invited. None of the jurors accepted their invitation.

### c. **People v. Stielow Coerced Confessions, New Forensics, and An Early Innocence Project (1915-18)**

A jury convicted illiterate Charles Stielow on two murder charges in 1915 in Orleans County. The presiding judge imposed a death sentence, initially scheduled for April 1916. The strongest evidence at the trial was testimony of an unsigned confession and self-proclaiming ballistics expert.

The presiding judge sentenced Mr. Stielow to death. He was sent

to Sing Sing prison to await execution. The Court of Appeals affirmed the conviction without opinion.<sup>2</sup>

While he awaited execution at Sing Sing, people such as his jailers and attorneys became concerned that the conviction resulted from a coerced confession and fraudulent forensic testimony. Philanthropic groups and individuals implored Governor Charles Whitman to stay Stielow's execution. For the next two years, Stielow's execution was stayed four times.

During those two years, ten judges denied motions to vacate the convictions owing to newly discovered evidence.<sup>3</sup> The most significant newly discovered evidence was proof such as undisclosed digital recordings of Stielow's discussions with law enforcement supporting innocence, convincing ballistic analysis using a newly invented comparison microscope, and letters from a new suspect (Erwin King), strongly indicating guilt.

Stielow's convictions were never reversed or vacated by a court. Governor Whitman did, however, eventually pardon him. Stielow was released in 1918 and returned to Orleans County. He died in Medina in 1942.

A Grand Jury declined to indict Erwin King in 1917. The warrant for his arrest was discharged.<sup>4</sup>

#### **d. People v. Powell Self-Recorded Singing Homicide Confession**

Joyce Powell was convicted by a jury of Murder in the Second Degree in Orleans County Court in 2011. The victim was found shot to death in 1992. Shortly before trial, a State Police investigator listened to a cassette tape the defendant recorded that had been found earlier in her car with other personal property. He discovered a rap song with lyrics that mirrored the murder. The tape, a digital recording of the tape, and a transcript of the lyrics were admitted into evidence after foundation evidence identified defendant's voice and explained when the background music was recorded. The Fourth

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<sup>2</sup> 217 N.Y. 641 (1916).

<sup>3</sup> See, e.g. *People v. Stielow*, 160 N.Y.S. 555 (Sup. Ct. Erie Cty. 1916).

<sup>4</sup> *Slaughter On A Snowy Morn: A Tale of Murder, Corruption and the Death Penalty Case that Shocked America* by Colin Evans (Icon Books Ltd 2010) is a book that details the developments and players in the case. Many articles about the case can be found on the internet.

Department affirmed after discussing the admissibility of the rap song and other issues.<sup>5</sup>

#### **e. Asserting Nonhuman Rights: Squirrel Slams and Caged Elephants**

Hunting and fishing are popular recreational activities in Orleans County. Fishermen from all over travel to Orleans County for fishing derbies on Lake Ontario.

The Holley Volunteer Fire Department used to raise funds with a “squirrel derby” that was called “Squirrel Slam.” Petitioners from outside Orleans County asked Orleans County Supreme Court to issue an injunction stopping the event. The litigation gained national and international media attention.

They alleged environmental injuries that required SEQRA compliance. The petition was initially dismissed. The Fourth Department reversed that dismissal.<sup>6</sup> Six months later Orleans County Supreme Court dismissed the petition a second time, this time for mootness and no standing; the fire department indicated that the event was cancelled. The Fourth Department affirmed that dismissal in 2019.<sup>7</sup>

The year before the 2019 Fourth Department decision in the “Squirrel Slam” case, the Court of Appeals denied leave to appeal on an unrelated case trying to protect two chimpanzees.<sup>8</sup> Justice Fahey, however, wrote a concurrence, asserting that the “inadequacy of the law as a vehicle to address some of our most difficult ethical dilemmas is on display in this matter.” He concluded that the “issue whether a nonhuman animal has a fundamental right to liberty...is profound and far reaching.... Ultimately, we will not be able to ignore it.” Judge Fahey occasionally sat in Orleans County Supreme Court before he was elevated to the Appellate Division, Fourth Department and ultimately the Court of Appeals.

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<sup>5</sup> *People v. Powell*, 115 A. D.3d 1253 (4th Dept. 2014), lv. denied, 23 N.Y. 3d 1024 (2014).

<sup>6</sup> *In Re Sheive v. Holley Volunteer Fire Co., Inc.*, 145 A.D.3d 1584 (4th Dept. 2016).

<sup>7</sup> *In Re Sheive v. Holley Volunteer Fire Co., Inc.*, 170 A.D.3d 1589 (4th Dept. 2019).

<sup>8</sup> *In Re Nonhuman Rights Project, Inc. v. Lavery*, 31 N.Y. 3d 1054 (2018).



Four months later the Nonhuman Rights Project chose to commence a habeas corpus proceeding in Orleans County seeking release of Happy, an elephant in the Bronx Zoo. The case attracted significant media attention. Orleans County Supreme court granted a motion to transfer venue to Bronx County Supreme Court. That court dismissed the petition, reasoning that habeas corpus relief is limited to human beings. The First Department affirmed for the same reason.<sup>9</sup>

The Court of Appeals affirmed four to two.<sup>10</sup> The court held that a writ of habeas corpus was intended to protect human liberty rights, not nonhumans.

The majority reasoned that ruling that nonhuman autonomous beings have liberty interests “would have an enormous input on modern society. The majority concluded that the Legislature, not the judiciary, should be the branch of government to address protecting nonhuman animals. The dissenter argued that the common law should adapt without waiting for legislature.

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<sup>9</sup> *In Re Nonhuman Rights Project, Inc. v. Breheny*, 189 A.D.3d 583 (1<sup>st</sup> Dept. 2020).

<sup>10</sup> *In Re Nonhuman Rights Project, Inc. V. Breheny*, \_\_N.Y.3d\_\_, 2022 NY Slip Op. 03859 (June 14, 2022).

## **VI. County Resources**

### **a. Orleans County Bibliography**

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### **b. Legal Records**

Court records are maintained by the Orleans County Clerk: The records include files from current courts from 1847 (County Court) and 1851 (Supreme Court). County Court records also include files from Court of Common Pleas from 1825 until 1847 (civil cases), Court of General Sessions

1825-1847 (criminal cases), Circuit Court 1838-1870 and 1892-1910, and Oyer and Terminus (criminal) 1825-50, 1858, 1878-95.

An extensive list of documents stored in the basement of the Orleans County Clerk's office was compiled by Linda Fitzgerald in 1988 and is available for review.

**Nadine P. Hanlon, County Clerk**  
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**Clarendon Historical Society**  
P.O. Box 124  
Clarendon, New York 14429  
**Medina Historical Society**  
406 West Avenue  
Medina, New York 14103

**Murray/Holley Historical Society**  
P.O. Box 346  
Holley, New York 14470

**Cobblestone Society**  
14393 Ridge Road  
Albion, New York 14411

**Hoag Library**  
134 South Main Street  
Albion, New York 14411

**Lee-Whedon Memorial Library**  
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