

v.44F, no.8-38

UNITED STATES *v.* WILSON.

*District Court, E. D. South Carolina.*

January 6, 1891.

STEALING LETTERS FROM THE MAIL—INTENT.

Where a boy under 12 years is tried under Rev. St. U. S. § 5469, for stealing letters from the mail, and it appears that he took them from boxes in the post-office, carried them home, threw them carelessly aside, without opening or mutilating them, and, when asked about them by the postmaster, at once brought them back, it is a question for the jury whether he took them with criminal intent, or from a spirit of boyish mischief, and they may convict him or acquit him accordingly.

Indictment, Larceny from the mails.

*Abial Lathrop*, Dist. Atty.

*S. J. Lee*, for defendant.

SIMONTON, J., (*charging jury.*) The defendant is indicted under section 5469, Rev. St., for stealing letters from the mail. You have heard the testimony. The defendant went into the post-office at Orangeburg, and took from an open box, and the locked box next to it, several letters. He carried them home without opening them or mutilating them in any way. He threw them carelessly aside. When asked about them by the postmaster, he went at once and brought them back. He is charged with stealing the letters. If the testimony satisfies you that he took these letters with criminal intent,—that is to say, with the intent of converting them to his own use,—he is guilty. But if, because of his extreme youth, (he is under 12 years of age,) you come to the conclusion that he took them in a spirit of boyish mischief, either not knowing or not realizing the criminality of the act, you may acquit him. *Rex v. Owen*, 4 Car. & P. 236. The jury found him guilty, with a recommendation to mercy.