On motion this cause was continued upon the part of the State, upon the affidavit of Wilson Foster for the want of the testimony of James Summons Lucinda Gordon & J W M Gason

The following is the affidavit to wit

State vs Thomas Duke & Ann Wetton } Murder } Superior Court of Law & Equity Fall Term A D 1867

Wilson Foster maketh oath that the State is not ready for the trial of this case for want of the testimony of James W M Gason James Summons & Lucinda Gordon, That the said James W M Gason & James Summons are under recognizance as witness's in this case, that the materiality of Lucinda Gordon as a witness was not known until at Wilkes Superior Court & that a Subpoena was issued at once for said Lucinda Gordon, but that said Lucinda is unable to attend court on account of sickness to wit, Typhoid Fever as affiant is informed & believes, That the said J W M Gason is a citizen of the State of Tennessee & is now attending the sessions of the Legislature of Tennessee of which body he is a member at this time as affiant is informed & believes

That all the said witness's are material & necessary witness's to the State in the prosecution of this case, and are absent without his consent or procurement & that the State cannot come safely to trial without their evidence and he expect the State to have the benefit of their testimony at the next term of this Court & this affidavit is not made for delay

Subscribed & sworn to before this 16th Oct 1867 C L Summers Clk

his Wilson x Foster mark