

# “If’n dis-‘n don’ see, dat-‘n go fr’ee”:

Ruining the fallacy of Abraham Lincoln's famous  
"Almanac & the Dark Moon" Murder Defense

A short comment upon the alleged skills  
of the great Attorney, Abraham Lincoln

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Here is something regarding Abraham Lincoln, nearing his middle-age as an attorney, where, as a defense attorney, he won a murder trial, and today a famous one, doing it with such dramatic flair and style, or so we today believe, that the myth of the event persists to this day. It says that Lincoln’s client was in fact innocent of murder, and Lincoln himself only saved the day, and the client’s life.

But that may not be the circumstance. Rules are rules, whether civil or criminal; evidence is evidence, whether civil or criminal; and, witness credibility is witness credibility, whether civil or criminal.

In August, 1859, William Armstrong was a defendant in a murder prosecution, in which he was defended by Abraham Lincoln. Armstrong’s father was a law school friend of Lincoln, so when Lincoln heard of the murder charge, he volunteered his legal services, for free: ‘pro bono.’

A witness against the defendant testified that he saw the accused strike the victim. During cross-examination by Lincoln, the witness was asked for further details of the event. The witness testified that he was about 150 feet away from the two men, but he still could clearly see the murderous act by the light of the full moon.

To prove pursuant to the rules of evidence that the witness lied, Lincoln produced an almanac to show that the moon on that date (a year or two earlier) could not have produced enough light for the witness to see anything clearly, and thus no one could have seen how the deceased actually died. The jury, we are historically told, acquitted the accused.

But the acquittal here, nor anywhere, does not prove the innocence of the accused; it merely proves that no one saw the victim nor how that victim really died. And according to the rules of procedure and evidence, then and now, it was not Lincoln’s duty nor burden to prove his client-defendant was innocent, but only to show there was sufficient doubt as to whether the defendant did it; and in that case, there was nothing “beyond a reasonable doubt,” as it is popularly and legally known.

It could be, again then and now, that the defendant was in fact Guilty of Murder as Charged; but the Witness Testimony did not sustain any such finding, and it required an acquittal.

So here we might find more modernly where, in place of a Caucasian Abraham Lincoln, there is a black attorney acting as defense counsel representing a black man similarly accused; and in the Closing Arguments, this black attorney may paraphrase, as Johnnie Cochran said for O.J. Simpson:

“If’n dis ‘n don’ see, dat ‘n go fr’ee.” And so he did.