

## **Newspaper Accounts of the Murder of Elijah Strode**

**BLACK HILLS DAILY TIMES  
WEDNESDAY MORNING  
FEBRUARY 16, 1881**

The cold weather has affected businesses here materially. The ranchmen are unable to get to town, and but few trains are passing through. It is generally believed that ninety percent of the stock and work cattle are bound to succumb. The continued severity of the weather on the one hand and the deep, packed snow on the other renders the prospect sickening. Some trains – large ones, too – are on this side of the Cheyenne, with scarcely a hoof left. --Tom A. Toe.

P.S. Since writing the foregoing a soldier of the name of Strode has been shot in Tom Miller's saloon. It appears that Strode and another soldier by the name of Borphy come up to Sturgis together. They took on a certain amount of steam. Strode, who is somewhat of a shootist, having shot a man about a month ago, was flourishing his revolver a good deal and threatened to kill Borphy. After some time Borphy ran behind the counter and picked up a revolver and told Deputy Sheriff Schnell to disarm the other man or he would shoot him. Schnell, it seems, thought the boys were only chaffing, and apprehended nothing serious. Strode held his revolver in his left hand. Borphy raised his pistol and fired, striking Strode in the breast, near the clavicle, or rather near the junction of the clavicle with the sternum. Strode said he was shot and started to the back door and opened it, but fell dead on the floor.

Borphy was arrested and is now in jail and in fear of being lynched.

**BLACK HILLS DAILY TIMES  
WEDNESDAY MORNING  
FEBRUARY 16, 1881**

### **RED HANDED MURDER**

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And this time it is at Sturgis City, and the victim and his murderer are both soldiers – the Inquest.

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Yesterday morning news reached town that a man had been shot and killed at Sturgis City, and as usual on such occasions there were all kinds of rumors in regards to it.

Judge Campbell received a telegram from Col. Benteen about noon, stating that two privates of his company, H, had got into a row, and Whalen had shot and killed Strode, and desired to know if the case could not be submitted at once to the present grand jury.

During the afternoon quite a number of people came up from there, principally soldiers, and from all of them we learned that Whalen had shot Strode in self defense; that Strode

was a bad man and that Whalen was the reverse; and these statements, as well as the published telegram in the *Press* are about as near the facts as developed by the coroner's inquest, as the devil is to being a saint.

Coroner Smith was notified, and with Deputy Atchinson went down and gave the case a thorough examination. M.H. Stark, Dennis Foley, and E.B. David were sworn as jurors.

The first witness, Justice Schnell, sworn: I stepped into Tom Miller's saloon; it must have been between one and two o'clock in the morning. Strode was there; he invited me to take a drink with him. I did so with him and Brophy or Wheeler. After we got through drinking Strode called me to one side to talk to me confidentially. We were talking there and all at once Brophy went around behind the bar and presented the pistol on Strode and told him to give up his pistol or he would shoot him.

I said to him: "There, you d---d fool, put up that pistol. Put it where you got it." He then said to me: "If you don't make him give up that pistol I will shoot you." I then said: "To satisfy you I will search him." I then reached around to his hip pocket to feel if he had a pistol in it, but he did not. Strode then stepped back three or four paces to the wall and said: "Damn you, if you want to shoot ----" Shot at the instant; he had hardly got the words out of his mouth when the shot was fired by Whalen. Strode started for the back door and I think I heard him say, "I am shot." At that time I paid my whole attention to Whalen. I drew my revolver and made him come around the bar. I made him drop the revolver on the inside of the bar where the shelves are; I made him lay down the revolver. I then took hold of him. He said to me: "Schnell, I didn't mean to do it." At that time Mr. Miller came in the back room. I said to him: "Tom, take hold of this man;" also to Mr. Hoyley (?). I did not see Strode make any motion to draw a revolver at any time while Whalen was talking to him. (Revolver shown) That is the revolver. He stood behind the counter when he used it.

Johnnie Scollard (?), Tom Miller, and Dr. Lynch were sworn, but as their evidence simply confirms Schnell's testimony, we omit its publication. The verdict was: "We, the jury, find that the deceased -Strode, came to his death by a pistol shot fired by Thomas J. Whalen, with felonious intent."

Coroner Smith returned last evening and to him are we indebted for the knowledge we have obtained.

Deputy Sheriff George Atchinson came up at the same time with Whalen, who was furnished with accommodations in the county jail.

Whalen's record is a bad one, and this little pleasantry of his will not improve it. We are informed by a reliable businessman at Sturgis that at one time in his life, he was hung by a vigilance committee for horse stealing, and the scar made by the rope on his neck is pretty good evidence that it came near being fatal. He went to this man after the killing and begged him to say nothing about it.

This case will come before the territorial district court, as the shooting did not occur on the reservation, otherwise it would have been a United States case.

**BLACK HILLS DAILY TIMES**  
**THURSDAY MORNING**  
**FEBRUARY 17, 1881**

**Sturgis City**

Sturgis City, that hell hole of iniquity, the abode of murderers and thieves, has once more come to the front with a murder case. – *Enterprise*.

This occurrence will not add to the popularity of Sturgis City as a summer resort, nor to the reputation of its general run of inhabitants for peace and quietude. – *Evening Press*.

Let us look into these changes a little and see what truth there is in them. We are personally acquainted with most of the business men of Sturgis: Harmon & Co., among the most extensive dealers in all kinds of goods and general merchandise in the Hills country, John Scollard, J.C. Perkins, Stephen Fruin, Charley Epton, Dr. Lynch, Tom Miller, Louie Abrams, George Shingle and many others we could mention, and they, and in fact the entire resident population of Sturgis will compare very favorably with those of any other place in the country. There is not a murderer or a thief among them; there is not even a brawler, and the mule case that is now occupying the attention of the court has developed the fact that no citizen of Sturgis City had anything to do with it, and it has been ascertained that the thieves all belong to Fort Meade and Deadwood.

Thomas J. Whalen and Elijah J. Strode were soldiers belonging to the post, and, we were credibly informed, came to Sturgis from the post full of post trader's whisky but a short time before the killing, and that crime should not be charged up to people who are in no manner responsible for it.

The disreputable people of Sturgis are the transients that go there from here, Lead, Central, and other portions of the country, including, also, the soldiers from the post, and it is these people who have made most of the trouble that has occurred there.

The commander of the post is responsible indirectly for the most of the iniquity they are troubled with. It would be an easy matter for him to prevent these disreputable soldiers from going off the reservation every night of their lives when they felt like it. If it is not contrary to the regulations for soldiers to own and operate dance houses, and be there every night off of the reservation, why not issue a general order asking for sealed proposals to build them on the reservation? The officer of the day could be there in person, with a sufficient guard and preserve order. It would save shoe leather and livery hire, and might be an improvement on the present plan.

At no other military post that we ever knew of were such things allowed, and if the post commander justifies himself by saying he knows nothing of it, we think it is high time he should become familiar with what is going on.

These blatant shrieks and scurrilous pokes at the citizens of Sturgis City are all bosh and have no effect here at home, where the parties are all known, and as the sheets indulging in them have no influence among strangers, but little harm will result.

**BLACK HILLS DAILY TIMES**  
**FRIDAY MORNING**  
**MARCH 18, 1881**

**District Court**

Hon. G.C. Moody, presiding.

Thomas J. Whalen, indicted for the murder of Elija [sic] T. Strode, appeared with his attorneys, Hamilton and Pemberton, and was given until Monday next to plead. Defendant made the proper affidavit that he had not the means to procure the evidence that was necessary for his defense, and the court ordered subpoenas for six witnesses to be issued and served at the county's expense.

**BLACK HILLS DAILY TIMES**  
**TUESDAY MORNING**  
**MARCH 22, 1881**

District Court  
Hon. G.C. Moody, Presiding

T.J. Whalen, murder, [pled] not guilty.

**BLACK HILLS DAILY TIMES**  
**TUESDAY MORNING**  
**MARCH 29, 1881**

District Court  
Hon. G.C. Moody, Presiding

The case of Whalen, for the murder of Strode, was then called. It did not require as much time as anticipated to secure a jury and when empanelled it consisted of P.W. Savage, Horace L. Dunklee, Wm. S. Knowles, John M. Robinson, George G. Crane, John W. Caldwell, Wm. L. Smith, Jacob S. Kelly, John C. Miller, Hiram L. Hale, and Charles Borchers.

The evidence of the prosecution was nearly all in at the hour of adjournment, and did not differ materially from the evidence given before the coroner's jury that has been published in the TIMES.

But one person outside of the parties themselves saw the shooting, and that man is Justis Schnell, deputy sheriff, and he states that he went into the saloon and found both of the soldiers there. Strode invited him and Whalen to take a drink, and they did so, and then he and Strode stepped back to the end of the counter and were talking when Whalen went around behind the bar, picked up a revolver, presented it, and told Strode to drop his gun or he would shoot him. He then told Schnell that if he did not disarm Strode he would shoot him. He then searched Strode for a pistol, but found none, and at that moment Strode stepped back from the counter, and with his hands pulled apart the lapels of his coat and said: "If you want to shoot, damn you, shoot," and at the instant Whalen fired. He arrested Whalen, and Strode started out at the back door, and as he stepped out he fell back in the room on his back, dead.

Tom Miller, proprietor of the saloon, waited on them to the drinks, and then stepped out at the back door, and while out there heard the shot fired and started in. As he came in he met Strode going out with a nickel-plated gun in his left hand. Strode passed him, went through the door and pulled it to, and fell backwards into the room, dead.

**BLACK HILLS DAILY TIMES**  
**MARCH 30, 1881**

DISTRICT COURT

The balance of the day was consumed in the trial of T.J. Whalen. There were a good many witnesses examined on both sides, and everything that would throw any light on the subject was brought out, and a most thorough and vigorous defense was made. The defendant testified that Strode had a revolver in his hand leveled upon him when he fired, and that the shooting was in self-defense.

The argument of counsel was lengthy and to the point, but the hour was so late when they got through that the court turned the jury over to the custody of the bailiffs until 10 o'clock, today and adjourned.

**BLACK HILLS DAILY TIMES**  
**MARCH 31, 1881**

DISTRICT COURT

THE AFTERNOON TAKEN UP IN A RECITAL OF THE MISDEEDS OF ONE  
JOSEPH CARD – THE WHALEN JURY STILL OUT

Hon. G.C. Moody, presiding.

It was eleven o'clock and five minutes when court convened yesterday morning, and the business attended to was the charge of the court in the Whalen murder case which occupied the forenoon. The jury went out with the bailiffs and is out yet.

**BLACK HILLS DAILY TIMES**  
**FRIDAY MORNING**  
**APRIL 1, 1881**

The jury in the case of the territory vs. T. J. Whalen, after being out a day or two, came into court yesterday and satisfied his honor that there was no earthly use of keeping them out any longer, as there was no show of them ever coming to an agreement. The court believing they told the truth discharged them, and the case now stands just as it did before the trial. We are no lawyer, neither are we a jurist, but from what we heard of the evidence we had made up our mind that the jury would quibble over the verdict as to whether it should be murder or manslaughter in the first degree. Instead of making good this journalistic opinion, the first ballot that was cast showed that eight of the dozen were of the opinion that it was some other man that killed Strode, and these eight stubborn fellows were of the same opinion up to the time that the jury was discharged. There is no disguising the fact that everyone who heard the trial thought a verdict would soon be arrived at, but as it is the case stands just as it did before the trial.

**BLACK HILLS DAILY TIMES**  
**APRIL 6, 1881**

Judge Hamilton moved the court that Whalen be admitted to bail. Mr. Hastie did not oppose the motion, stating that he understood the jury stood all the way through eight for acquittal to four for conviction. The court thought it singular, and stated that if the jury believed the evidence of the prosecution that they would have been justified in bringing in a verdict of murder.

**IT APPEARS THAT WHALEN STOOD TRIAL A SECOND TIME FOR THE  
MURDER OF ELIJAH STRODE. BELOW ARE THE NEWSPAPER ARTICLES  
ABOUT THE SECOND TRIAL. [Thanks to Rocky Boyd]**

**BLACK HILLS DAILY TIMES**  
**AUGUST 13, 1881**

District Court  
Hon. G.C. Moody, Presiding

In the territorial court Thos. J. Whalen moved that witnesses for the defense be subpoenaed by the territory, which was granted.

**BLACK HILLS DAILY TIMES**  
**OCTOBER 31, 1881**

District Court  
Hon. G.C. Moody, Presiding

His Honor in considering the case of Kun-Gi-Shun-Ca, or to reduce the name to English, Crow Dog, who now stands accused of the murder of Spotted Tail, delivered an able and lengthy decision on the question of jurisdiction, the upshot of the matter is Crow Dog will be tried and have to answer here in Deadwood.

Notes: It would seem that young Whalen was confined with Crow Dog in the old territorial prison in Deadwood.

**BLACK HILLS DAILY TIMES**  
**NOVEMBER 1, 1881**

District Court  
Hon. G.C. Moody, Presiding

Thos. J. Whalen, the soldier who killed another soldier at Sturgis, named Stroud [sic], over a year ago was brought up for trial. The prisoner had one trial, the Jury disagreeing. The facts brought out upon the trial were considerably in favor of Whalen. It seems the man he shot attempted to take his life upon a former occasion. At last accounts the following jurors had been drawn and duly impaneled: S.F. Molitor, M.L. Batchelder, J.H. Harris, Chas. Dorsett, H.O. Anderson, J.W. Russell, Chris Flucken, Edward Charbono.

**BLACK HILLS DAILY TIMES**  
**NOVEMBER 2, 1881**

District Court  
Hon. G.C. Moody, Presiding

In the Whalen case the testimony for the prosecution is all in and the defence[sic] is now at work. The case will likely go to the Jury this evening. This has advanced more rapidly than any murder case ever heard in this city.

**BLACK HILLS DAILY TIMES**  
**NOVEMBER 3, 1881**

District Court  
Hon. G.C. Moody, Presiding

The murder case which has been before the court during the past two or three days was given to the Jury this forenoon and at present writing no decision has been rendered.

**BLACK HILLS DAILY TIMES**  
**NOVEMBER 4, 1881**

District Court  
Hon. G.C. Moody, Presiding

The Jury in the Whalen murder case, which received its instructions last evening, was out yet this afternoon.

**BLACK HILLS DAILY TIMES**  
**NOVEMBER 5, 1881**

District Court  
Hon. G.C. Moody, Presiding

The Jury in the Whalen murder case, after remaining out so long that the junior members of the panel were afraid they would die of old age in the Jury room, were discharged, as it was painfully obvious they never, while grass grew and water run, could come to an agreement. It is understood the Jury stood ten for acquittal and two for conviction. Of these two we hear it whispered that one appeared prejudiced and impervious to all proof or argument. He had, it is stated, a brother killed at some time, and was for a verdict of guilty in the face of all reason or opposition. It is obvious that what may be good evidence to ten men may not be to one who is intensely prejudiced. Without reservation we say that a man of that description has no business on a jury, and it is difficult for us to see how a man so thoroughly saturated with his own opinions could take the oath of a juror in such a case without perjuring himself. We have no sham sympathy or bogus philanthropy for murderers, but when men accused of capital crimes are tried before juries, the jurors, each and all of them, should be unbiased and unprejudiced, with no preconceived ideas or bitter hates which evidence could not remove. A competent juror takes an oath to that purpose. When he disregards it he is in effect perjured. [[Compare this report to that of April 1, 1881 above.](#)]

