his knowledge and belief. Sworn to in open Court the 21st February 1809.

Test. William Ritchie Clerk

It is therefore ordered by the Court here that a Record of the proceedings in the prosecution aforesaid be transmitted to the Judges of Washington Court for trial and the same are hereby transmitted accordingly. And thereupon the said Thomas Burke being present here in Court is transmitted to the custody of the Sheriff of Frederick County aforesaid to be by him conveyed and delivered to the Sheriff of Washington County aforesaid to be by him safely kept in the Jail of his said County until he shall be duly discharged therefrom.

Test. William Ritchie Clerk

In Testimony whereof I have hereto subscribed my name and affixed the seal of Frederick County Court the thirteenth day of March in the year of our Lord One Thousand eight hundred and nine.

(Seal of Frederick Coty Court)

William Ritchie Clerk Frederick County Court

Whereupon cometh here into Washington County Court aforesaid the aforesaid Thomas Burke under the custody of Isaac S. White Esquire Sheriff of the County aforesaid in whose custody in the Gaol of the County aforesaid for the cause aforesaid he had been committed by order of the Judge and associate Judge of Frederick County Court aforesaid he had been committed and being to the bar here in his proper person led is committed to the Sheriff aforesaid, and immediately being asked how he of the premises aforesaid in the Judgment aforesaid specified and above charged upon him will be acquitted? the said Thomas Burke saith that he is not guilty thereof and thereof for good and evil doth put himself upon the Country; and John Johnson Esquire the States Attorney General who for the said State doth prosecute elected to try the said Thomas Burke upon the first Count in the Indictment. Wherefore let a Jury thereon appear before the Court here immediately by whom &c. and who neither &c. to recognize &c. because as well &c. who being called certain of them who were returned on the general pannel of Jurors by the Sheriff of Washington County aforesaid, to wit: William Yates, Philip Mains, Frederick

(Fishack)

Fishack, George Kreps, Jonas Hogmire, George Smith, Frederick Grosh, Leonard Shaffer and John Harper appeared and were elected tried and sworn upon that Jury fifteen of the Jurors (being the residue of the general pannel aforesaid) being also called appeared and were peremptorily challenged by the said Thomas Burke: therefore three others of the standers by, by the Sheriff of the County aforesaid being summoned by the command of the Judges aforesaid being called appeared and two of them to wit: Henry Stroud and John Hanna were together with the Jurors aforesaid elected tried and sworn upon the Jury aforesaid the other was peremptorily challenged by the said Thomas Burke. Therefore one other of the standers by, by the Sheriff of the County aforesaid being summoned by the command of the Judges aforesaid to wit: William Ellender who being called appeared and together with the Jurors aforesaid was elected tried and sworn to say the truth of and upon the premises contained in the first Count in the Indictment aforesaid and the Jurors aforesaid upon their oath do say that the aforesaid Thomas Burke is guilty of the Felony and Rape above upon him charged in manner and form aforesaid as by the first Count in the Indictment aforesaid is above supposed against him. Whereupon the said Thomas Burke being here in Court in his proper person prays the Court that a new trial may be to him granted and files in Court here the following reasons that is to say.

The State of Maryland vs Thomas Burke

Whereupon the said Thomas Burke being here in Court in his proper person prays the Court that a new trial may be to him granted and for cause shews, first: That the verdict aforesaid given and returned by said Jury is contrary to and not warranted by the evidence offered to them on the trial aforesaid, and secondly that the Jury aforesaid gave the said verdict by reason of misapprehending the opinion given to them by the Court, understanding from the said opinion that the Court declared that they ought to find the said Burke guilty, all which the said Burke avers, &c.

Thomas Burke

Whereupon all and singular the premises being seen and by the Court here fully understood and mature deliberation being thereupon

(had)