

Kentucky Court of Appeals.

Caleb Powers,		Appellant.
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Vs.	:	Brief for Appellant.
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The Commonwealth of Kentucky.		Appellee.

Statement.

When this case was called for trial in the court below, the defendant offered to file a plea in abatement in bar of further proceedings. The court would not permit it. The plea was offered and incorporated in the record. A copy of that pleading was subsequently offered, as a special plea of pardon in bar of further prosecution, and incorporated in the record. The court would not allow it to be filed. Both of said pleas were accompanied by defendant's affidavit of what he could prove in support thereof, which proof the court refused to hear. They allege that on the 10th day of March, 1900, William S. Taylor, as Governor of Kentucky, issued to, and it was accepted by, defendant, an absolute pardon for the crime charged. The validity of the pardon is claimed because it was the act of the Executive branch of the government (1) whether it was then represented by a de facto officer or not; (2) whether the then pending contest was ever determined or not; (3) that said contest was never in fact, or legally, determined; (4) that defendant has been deprived of his liberty without due process of law, and has been denied the equal protection of the law, as guaranteed by the Fourteenth Amendment to the Constitution, of the United States.