

## TOMBSTONE BY TOMBSTONE

---

### Earl Gardner, Last Legal Hanging in Arizona

Earl Gardner has been referred to as a “pint sized” Apache Indian from the San Carlos Reservation in Arizona. He had been a juvenile that grew up as a very mean kid. Especially if he had been into the tulapai, a fermented beverage made by Apache Indians of sprouted fermented corn., often with various roots or herbs. He developed into a ruthless murderer. In 1925 he killed a fellow tribesman by stabbing him to death. He only served seven years for this brutal murder.

In December of 1935 he took an axe to his wife, Nancy, and his baby boy, Edward. There was no apparent reason for this heinous act other than his fierce, uncontrolled anger. There was no need for an investigation or big manhunt. After the vicious act he quickly challenged the government to “get a good rope and get it over with.”

He tried to plead guilty to Nancy and Edward’s murders, but the judge refused to let him in spite of Gardner’s preference that the government should “get it over with.” Better to “die like an Apache” than die a little every day in prison, he said. With his heart never in his own defense, it’s no surprise he was convicted and sentenced to hang by a federal judge even though hanging was not allowed in Arizona. Appeals were filed by his attorney and were processed against Gardner’s wishes, and were without success.

There had not been a hanging in Arizona since August 21, 1931, when 26-year-old Herman Young had been executed for murder-robbery. In the almost five years since then, hanging gallows had not been built or maintained, so they were very scarce. One could not be found to hang Gardner.

About July 13, Jack Lefler, a reporter for the Phoenix Gazette wrote a letter to noted historian Douglas D. Martin telling him:

The hanging of Earl Gardner was a very dramatic story and an exciting one to cover. . . . He was a juvenile delinquent and mean as hell, especially when loaded with tulapai. Marshal McKinney deputized everybody in sight, including reporters. We strutted the streets of Globe carrying rifles and stacking them in the corner of a bar when we went in for a drink. The gallows was an abandoned rock crusher in a canyon below Coolidge Dam. Earl was brought from the jail at Globe during the night and spent his last hours sitting in a car with the Rev. Uplegger. . . . I tried to interview them but they wouldn't talk. Reporters, officers and other witnesses lounged around campfires in the sandy bed of a wash through the night. There was quite a bit of boozing and horsing around. Earl went to the gallows without apparent concern and died a ghastly death. I was crouched in a corner of the crusher on a pile of gravel and damn near went through the trap after him. Earl's shoulder struck the side of the trap and broke his fall. He hung at the end of the rope gasping for 25 minutes until Maricopa County Sheriff Lon Jordan, a giant of a man, stepped down through the trap and put his weight on Earl's shoulder to tighten the noose and shut off his breathing.

When Gardner was asked if he had any last words, he only said, “Well, I’ll be glad to get it over with,” was all he had to say

The Congress was so appalled by the botched, ghastly execution that a law was passed that all future federal executions had to conform to the manner “prescribed by the laws of the State within which the sentence is imposed.” Arizona’s law required that all executions had to be done in gas chambers. Hangings were not allowed even on the federal controlled Indian Reservations. So, a canyon in the Pinal Mountains and 42 witnesses were the only ones to see the last legal hanging in Arizona.

R. Michael Wilson records in *Legal Executions After Statehood in Arizona, Colorado, Nevada and Utah: A Comprehensive Registry* gives a further description of the scene:

Finding a gallows was difficult as the state of Arizona was using the gas chamber exclusively for executions, so U.S. Marshal Ben J. McKinney improvised a gallows using an old rock crusher from the *Coolidge Dam* project. The crusher had been abandoned within a deep gorge on the Indian reservation. A rope was strung from a crossbeam and a hole cut in the floor for the trapdoor. After there were rumors of an Indian uprising, McKinney deputized a force of men and

## TOMBSTONE BY TOMBSTONE

armed them to prevent any interference, and they guarded the gallows for days before the execution date.

As he stood on the contraption's trapdoor before forty-two witnesses, Gardner was asked if he had anything to say. "Well, I'll be glad to get it over with," was all he could come up with. It took longer to get it over with than anyone could have anticipated. A witness recalled:

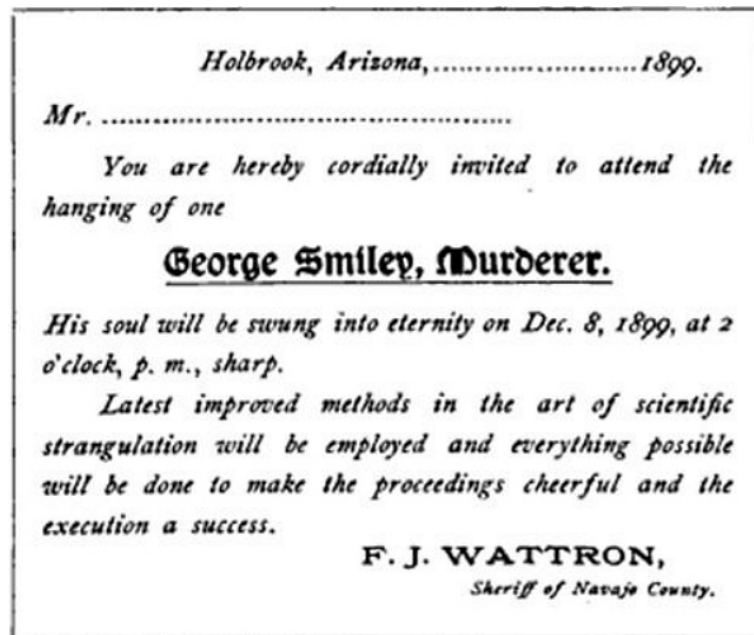
Earl went to the gallows without apparent concern and died a ghastly death. I was crouched in a corner of the crusher on a pile of gravel and damn near went through the trap after him. Earl's shoulder struck the side of the trap and broke his fall.

When the trap sprung at 5:06 a.m., the noose slipped around to the front of Gardner's throat, causing him to fall off-center and hit the side of the opening. His head snapped backwards but his neck didn't break and he thrashed around for over half an hour. It wasn't until 5:39 that his heart ceased to beat.

Earl Gardner's death was the last legal hanging in Arizona.

### Some events in the history of Arizona executions.

- 1865—Delores Moore, a female and a murderer, becomes the first execution victim in Arizona Territory.
- 1884—The largest hanging in Arizona occurred when five men were executed for killing four Bisbee citizens during a botched store robbery. This was the first legal hanging in Tombstone.
- 1899—The county sheriff would often issue written invitations for private citizens to attend an execution. The following invitation caused the governor to grant Smiley a stay of execution until new invitations could be issued:



- 1913—John Goodwin is the first person to be hanged in Arizona statehood.
- 1928—On June 22, four Asians were hanged for murder in Mojave County.
- 1934—The first execution by gas after hanging was banned.
- 1936—As we just saw, the last legal hanging in Arizona.

## **TOMBSTONE BY TOMBSTONE**

---

There were two instances of triple hangings and six cases of double hangings. Every hanging in the state was for murder or murder-robbery.