

A CRIMINAL TRIAL AT THE MUNICIPAL COURT OF
THE PRAGUE „KLEINSEITE“ IN THE YEAR 1773:
SPECULATIONS AND CERTAINTY

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In the fall of 1773, a municipal court of the so-called „Small Side“ Quarter of Prague in the morning sentenced to death a thief who had fled there from Electoral Saxony, only to change the sentence in the afternoon to four years' imprisonment. This miscarriage was due to the circumstance that neither the *praeses* nor the *assessore*s were familiar with an important provision of the *Constitutio Criminalis Theresiana* of 1769, which would have worked against passing a death sentence. — This, at any rate, is what is reported in the memoirs of an actor named Christ, who claims to have been an eyewitness of the trial.

This article examines the credibility of this astonishing trial account, in the light of the personality of its author and the juridical plausibility of his report. In the process, the development and status of criminal law in 18th-century Bohemia are also discussed in detail. The conclusion, based on source criticism and considerations of legal history, is that the layman Christ misunderstood the details of the trial situation and was unjust when he accused the judge of lack of familiarity with the *Theresiana*. But the core of his charge of abuse of judicial power can not be refuted. What has been preserved of the correspondence exchanged between the municipal court and the appellation court in Prague Castle shows that the judges had already decided on a prison sentence before the trial. This unusual case of first appearing to pass a death sentence can probably be viewed as a curious form of „Terror“.