

Lidge Schougurou, Petitioner
Vs.
Franklin K. Brough, Warden

In the Cecil County Circuit Court
at
Elkton Maryland



Petition, To the Chief Judge and associate judges for the Cecil County Circuit Court, requesting that a Writ of Habeas Corpus be issued, granting your Petitioners prompt release from further illegal confinement.

Your Petitioner prays that this Honorable Court will promptly hear this petition for Writ of Habeas Corpus, and, will order your Petitioner promptly released from any further illegal detention. And as grounds for this petition and request your Petitioner (Lidge Schougurou) points out the following:

The Maryland Court of Appeals, in case number 368, September Term 1964, rendered an opinion on October 11, 1965, in which the Court voided all previous proceedings in this case including the indictment, trial, conviction and sentence. And, the Court of Appeals returned your Petitioners case to the Cecil County Circuit Court for further proceedings without stating what those proceedings was to be, or, the nature of the proceedings.

The Court of Appeals did state that the indictment and conviction was unconstitutional, Therefore, your Petitioner believes that the state must release him due to the fact that he has once been indicted, tried, convicted and punished, and the mere fact that the state did everything illegal was no fault of your Petitioners and it does not give the state the right to again place him in jeopardy because of the states own illegal procedures.

Your Petitioner also points out to this Court, that the crime in this case was committed on Federal (Navy) property, and in a Federal Government owned house on the said property. And your Petitioner was arrested in the Federal owned house at the scene of the crime on the Federal property. Therefore this is another reason why the state of Maryland cannot continue to restrain your Petitioner, and the state cannot attempt to re-indict or re-try your Petitioner since the state of Maryland has never had any legal jurisdiction in this case.

In support of your Petitioners belief that he is entitled to a prompt release, and that the state has no right and cannot attempt to re-indict and re-prosecute your Petitioner, He points out to this Honorable Court the following:

"The validity of the judgement as assaid on the ground that the acts, of, under which the post sentence was found are unconstitutional it effects the foundation of the whole proceeding. an unconstitutional law is void, and is no law. an offense created by it is not a crime, a conviction under it is not merely erroneous but is illegal and void, and cannot be a legal cause of imprisonment. see, Howell V. State, 156, 124 Eng. Reg. at 1016-19 to the same effect we read page 15."

"An accused is in legal jeopardy when a trial is begun before a court of competent jurisdiction upon an indictment or information which is sufficient to sustain a conviction, and, when jeopardy attaches, the discontinuance of the trial without the consent of the accused or an absolute necessity, is a bar to another prosecution for the same offense a second time". see, "State V. Brick Co., 117 Kan. 192, Quoted by Dawson, C.J. in Ex Parte Rockwood, 69 Pac. 2d. 703, 146 Kan. 386, 1937."

"It is well settled that the impaneling of the jury is part of a trial: The legal jeopardy of the defendant has attached when a jury has been charged with his deliverance, and the jury stands thus charged when its members have been impaneled and sworn. see People V. Hawkins 127 Cal. 372, Quoted by Carter J. in Jackson V. Superior Court, 74 Pac. 2d. 243, 10 Cal. 2d. 350. 1937" Also, see, State V. Elder, 1879, 65 Ind. 282; Kekeness V. State, 13 N.E. 2d. 525, 213 Inds 476, 1938; Ex Parte Garcia, 90 Tex. Cr. R. 287, and; Ex Part Seymour, 128, S.W. 2d. 46, 137 Tex. Cr. App. 103, 1939; Grafton V. United States, 206 U.S. 333, 27 S. Ct. 749, 51 L. Ed. 1084; Green V. United States, 355, U.S. 184, 187, 78 S. Ct. 221, 223, 2 L. Ed. 2d. 199, and; Ex Parte Lange, 18 Wall. 163, 169, 21 L. Ed. 872.

It has been almonst Two (2) months since the Court of Appeals of Maryland reversed your Petitioners conviction and sent the case back to the Circuit Court of Cecil County, and since that time the state has made no attempt to bring your Petitioner back to Court and allow him a hearing (or proceeding)

in compliance with the opinion of the Maryland court of appeals. Therefore you Petitioner request that this Honorable Court issue the writ of Habeas Corpus, and order that your Petitioner (Lidge Schougurou) be promptly released from any further confinement in regards to voided indictment and conviction, but, for which his detention to this time has continued.

Lidge Schougurou
.....
PETITIONER

A F F I D A V I T

I hereby certify that on this 2nd day of December 1965, before me the subscriber, a ~~Notary Public~~ ^{Justice of the Peace} of the State of Maryland, in and for the City of Baltimore, personally appeared Lidge Schougurou, who affirmed, according to his ~~belief~~ belief that the matters and facts stated in the foregoing petition are to the best of his knowledge true.

Charles P. J. [unclear]
.....
~~Notary Public~~ ^{Justice of the Peace}

My Commission expires the 3 day of May 1967

RECEIVED FOR RECORD
& RECORDED

DEC 3 11 16 AM '65

ONE OF THE _____ RECORDS
CECIL COUNTY, MD. & EXAM
PER W. ANDREW SETH

AFFIDAVIT IN FORMA PAUPERIS

STATE OF MARYLAND)

^{SS}
CITY OF BALTIMORE)

Justice of the Peace

Before me, a ~~Notary Public~~ of the State of Maryland, personally appeared *Lidge Schaugerow*, who made oath in due form of law that executed the foregoing motions, that he knows the contents thereof, and that the claims alleged therein are true and correct to the best of his information, knowledge and belief. He further deposes and says that he is a citizen of the United States of America, and that he is unable to pay the costs of said actions, or give security for same. Wherefore prays Forma Pauperis proceedings.

Lidge Schaugerow

Subscribed and sworn to)

before me this 2)

day of December, 1965

Charles P. Zimm
~~Notary Public~~
Justice of the Peace
My commission expires:

5-3-67

RECEIVED FOR RECORD
& RECORDED

DEC 3 11 15 AM '65

ONE OF THE _____ RECORDS
CECIL COUNTY, MD. & EXAM.
PER W. ANDREW SETH
CLERK