

DOCKET NO. 174

NUMBER	TERM	YEAR
<u>785</u>	<u>May</u>	<u>1961</u>

Commonwealth of Penna.

Ex. Rel. Sami H. Sordani

VERSUS

James F. Maroney, Supt.

Address all letters to: Name

Sami H. Soudani

No. C-5231

P. O. Box 9901, Pittsburgh 33, Pa.

STATE CORRECTIONAL INSTITUTION
AT PITTSBURGH
J. F. MARONEY, SUPERINTENDENT

DOMESTIC

TO The Prothonotary and Clerk of Courts

Date July 31, 1961

Street and Number The Court House

City and State Clearfield, Pa.

Relationship Prothonotary

Dear Sir:

Attached is my petition for a writ of Habeas Corpus addressed to Clearfield County court, accompanied by a check covering the filing fee.

Copies of said petition are being mailed directly to Clearfield District Attorney, to Pennsylvania Attorney General, & to Warden James F. Maroney.

Please advise me of the hearing date as soon as it is set by the court in order to enable me to procure an attorney from Pittsburgh, & to provide you with a list of witnesses to be subpoenaed by the court to testify in my behalf during the hearing.

I will appreciate receiving your acknowledgement of this letter & the attached petition.

Very truly yours

Sami H. Soudani

P.S.

Also enclosed is my Answer to the Complaint which I received today, filed by Clearfield Hospital Inc. I am mailing a copy directly to Smith, Smith & Work of Clearfield. Thank you. S.H.S.

General Information:

Inmates are allowed a regular visit once every calendar month.
You must receive a visiting pass from the inmate in order to visit him.
Visiting hours are 8:30 A.M. to 4:30 P.M. daily except holidays.
The visiting room closes promptly at 4:30 P.M.
Money should be sent by Post Office Money Order, Registered Letter or by Express Money Order.
Inmates only may order books, newspapers or magazines from approved lists.
All correspondence must show return address of sender.
All packages from homes, stores or through visits are prohibited.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

Ex Rel. SAMI H. SOUDANI

v.

JAMES F. MARONEY, SUPERINTENDENT

STATE CORRECTIONAL INSTITUTION

PITTSBURGH 33, PENNSYLVANIA

NO. 785 *Devon*
May 1961

HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE, The President Judge of Clearfield County, Pa.

The petition of Sami H. Soudani respectfully represents:

1....Your petitioner, Sami H. Soudani, is a citizen of the United States and, prior to his commitment, was a resident of Clearfield County, Pennsylvania. He is presently confined in the State Correctional Institution at Pittsburgh, Pennsylvania.

2....Your petitioner is now actually, unjustly and unlawfully imprisoned and restrained of his liberty in violation of his rights under Amendments 6, 8 and 14 to the United States Constitution, as well as Article 1 section 9 of Pennsylvania Constitution, in the Institution above mentioned, by virtue of a conviction for assault with intent to kill in your Honorable Court, No. 84 November Sessions, 1958, on which conviction petitioner was sentenced to serve a term of 3½ to 7 years, pay a fine of \$1.000.00 and cost of prosecution.

REASONS FOR GRANTING THE WRIT

3....The conviction and judgment of sentence in your Honorable Court, by virtue of which petitioner is now confined, resulted directly from the violation of petitioner's constitutional rights and the denial to him of due process of law, contrary to the provisions of amendments 6, 8 and 14 of the United States Constitution, as well as Article 1

Section 9 of Pennsylvania Constitution. Said violation and denial consisted of the following:

A....Petitioner was denied his right to a fair trial in an impartial tribunal. The court Judge's bias and prejudice were demonstrated by his action in sanctioning the District Attorney's demand for excessive bail, by his derogatory comments made in the course of trial as well as outside the court, and by his charge to the jury, which over-emphasized the Commonwealth's case, while distorting and ignoring the defense, and by refusing evidence submitted by the defense.

The United States Supreme Court has repeatedly declared that due process of law, under the Fourteenth as well as the Fifth Amendment, guarantees to the accused "that fundamental fairness essential to the very concept of justice": Lisenba v. California, 314 U.S. 219 (1941). This principle must necessarily cover the manner in which the trial is conducted, in state courts as well as in federal. The right to trial by a judge who is neither biased nor partial, has been held to be inherent in the clear constitutional requirement of " a fair trial in a fair tribunal": In re Oliver, 333 U.S. 257 (1947); In re Murchison 349 U. S. 133 (1954).

In making the claim that petitioner's conviction herein was procured in violation of this rights we rely not only upon the state court record, but on facts dehors the record which can be established by testimony supporting petitioner's claim that both the prosecuting attorney and the trial judge repeatedly demonstrated their bias and prejudice. Said attitude, indicated in the first instance by the requirement of \$20,000.00 cash bail, although persons charged with the same offense were admitted to bail in much lesser amounts, (See "Commonwealth v. Tudor, April 1959") made it impossible for this petitioner adequately to prepare a defense. He was thus deprived of due process of law not only by the manner in which the trial was conducted, but by the proceedings prior to trial.

(b) Petitioner was deprived of trial by a fair and impartial jury.

Pervasive pre-trial publicity, some of which was deliberately instigated by the prosecuting officials, created an atmosphere of prejudice which made a fair trial impossible.

Our Court of Appeals has held that the presence of prejudiced jurors on the trial denies the defendant due process and consequently affords a basis of relief from the conviction: U.S. ex rel Davita v. McCorkle, 248 F2d 1 (1957); U. S. ex rel. Fletcher v. Cavell, 287 F2d 792, (1961)

(c) During the hearing before Justice of the Peace Harry G. Ganoe on January 6, 1959, petitioner was kept handcuffed to policeman Richard E. Shaffer inspite of the objection of defense counsel, and in violation of constitutional guarantees not to hold in bondage a defendant standing before a court or during a hearing before a magistrate.

It was during this hearing that the cash bail of \$20,000.00 for petitioner was reconfirmed.

(d) Petitioner was, at no time, informed of the nature of the evidence or of the witnesses to be used against him.

(e) With the full knowledge of the court, petitioner had a hard time obtaining counsel to represent him due to violent community prejudice and sentiment, some of which was displayed right on the streets. With the assistance of clergyman and other notables, petitioner finally landed with an attorney who is a notorious alcoholic, William C. Chase. This counsel, who made very few and brief visits to petitioner while in the county jail, seemed to have a prime interest of collecting money for his liquor, and satisfy the formality of being a defense counsel, since he had never discussed with petitioner his case other than asking him if he were guilty. He left petitioner under the false impression that he was working with the court to reduce his bail and get him a change of venue, two obligations which later events proved that he had never attended to.

On one of his rare visits to petitioner, attorney Chase was so dead drunk, saliva drooling down the corners of his mouth, that he could not make it on his own and had to be helped to leave the county

jail and enter somebody's car who drove him home

Attorney Chase had further demonstrated his dereliction of duty and collusion with the prosecution by pressurizing petitioner, just a couple of days prior to trial, for additional fee above and beyond the amount originally agreed to; by volunteering to the jury an incriminating statement which neither admitted by petitioner nor proven by the prosecution; by declining to cross examine certain prosecution witnesses to expose them as coached and prerehearsed witnesses of convenience; and by refusing to appeal petitioner's conviction in violation of previous agreement for which he had collected a fee in advance but refused to return.

Just prior to petitioner's taking the stand, attorney Chase told him that he would simply tell him what he was charged with and then let petitioner tell his own story. Instead, and to petitioner's surprise and astonishment, Mr. Chase started to fire at petitioner some silly and impertinent questions in an apparent disgusted tone. Thus, petitioner's counsel was both derelict, purposely ineffective and incompetent, and had worked hand in hand with the prosecution to the detriment of his client, the petitioner.

(f) The District Attorney had further proved his personal prejudice toward petitioner by contacting the U.S. State Department seeking means to get petitioner to renounce his U.S. citizenship and return to his native land.

At a later date the District Attorney had perjured himself in an effort to oppose and hurt petitioner in a support case proceedings: "No. 17 November, Session, 1958".

The District Attorney had further demonstrated his dereliction of duty and bitter prejudice to petitioner by periodically releasing to the local paper derogatory news about petitioner while suppressing all favorable items. He simply used petitioner as a political football.

(g) The prejudicial pre-trial publicity, about petitioner was so enormous that the local paper published on its editorial page that people

from all parts of the county had been calling the prothonotary to reserve seats in the court room to witness petitioner's trial.

Throughout the trial's three days proceedings the court room was so jammed up with spectators to the point where not even a standing room was available. The local paper reported that many individuals gave up going out for lunch or had it brought in lest they lose their seats and miss any part of the proceedings. The fact that no similar crime in this county has ever attracted so much attention testifies to the viciousness of pre-trial publicity and the political advantage the District Attorney was trying to reap for himself out of persecuting petitioner who is a colorful naturalized citizen having come from an Arab country and being of the moslem faith.

Public sentiment against petitioner was displayed in many other ways such as spontaneous cancellation of all of his insurance policies, forcible eviction from his place of residence, termination of his employment, etc, all of which occurred before his trial, and as a direct result of adverse and falsified publicity and community prejudice.

The actions of defense counsel, or the lack of them, appeared to indicate that he was not acting for the defense, but rather with the prosecution in order not to affront the prevailing community sentiment towards petitioner who was a new comer to this community and regarded both as a foreigner and outsider.

(h). Between the time of conviction and sentencing petitioner was being confined in the Western State Penitentiary in Pittsburgh, Pa., for safe keeping. The date of sentencing and the decision to bring him back to Clearfield for this purpose were treated with maticulous care and the utmost of secrecy so as to prevent a repeat assemblage of overflowing crowds in the court house, as the local paper proudly reported under fantastic front page headlines, exactly as if it were Hitler or Eichmann being brought to trial...

In an effort to humiliate petitioner further, he was forced by Clearfield County Sheriff, Charles Ammerman, to appear for sentencing in court in penitentiary garb, even though his own dress clothing were

available, and inspite of the fact that the Western State Penitentiary had already provided him with suitable dress suit for this trip.

Following sentencing petitioner was also forced physically by the same sheriff to pose for the newspaper photographer in the office of the sheriff in the court house.

Judge Pentz himself, during an encounter in Pittsburgh, Pa. with petitioner's second counsel at a later date made the statement that he personally resented and did not like petitioner.

4....Petitioner claims that he was discriminated against and was not given equal protection of the law, as is given to other citizens in the same circumstances, and was denied opportunities afforded the prosecution.

In re: "The equal protection of the laws guaranteed by the Federal Constitution and the Bill of Rights of these United States is the treatment alike, in the same place and under the same circumstances and conditions of all persons subjected to state legislation." Hysler v. Florida.

The equal protection of the law clause of our Federal Constitution states that invidious discrimination and inequality of treatment are violations of the supreme laws of the land.

"...This clause is violated by the withholding of equal access to courts, (Traux v. Corrigan, 257 U.S. 312 (1912),) or by inequality of treatment in the courts (Neal v. Delaware, 103 U.S. 370 (1881),)

Also in the U. S. Constitution annotated, at page 1144, Barbier v. Connolly, 113 U. S., 27, 31 (1885):

"...And that in the administration of criminal justice, no different or higher punishment should be imposed upon one than such as is prescribed to all for like offenses."

In an effort to document further his claim that he was not given equal protection of the law as guaranteed by the U.S. Constitution, petitioner respectfully submits the following:

On April 12, 1959, a Mrs. Violet Tudor, of DuBois R.D. 2, Clearfield County, Pa., broke into the bedroom of a Mr. Norman Gelnett, and clobbered him on the head, as he slept, with a hammer, then shot him with a gun, thus causing a bullet to penetrate his ^{skull} ~~skull~~ which necessitated him to be rushed to a specialty hospital in Pittsburgh. There a delicate operation was performed and saved his very life. All the publicity which Mrs. Tudor

received was a passing reference to her crime. The judge sentenced her to 3 years of PROBATION, and a \$1.00 fine.

Following is an exact comparison between ^{petitioner's} case and that of Mrs. Tudor's, to show the amazingly extreme contrast in handling the two cases by the same authorities and press:

<u>Circumstance</u>	<u>Petitioner's</u> My Case	<u>Mrs. Tudor's</u>
Date of incident	: Dec. 24, 1958, at 6. PM	April 12, 1959, at 6. AM.
Charge	: Agg. Assault & Battery, and Assault with intent to kill	Agg. Assault & Battery and Assault with intent to kill.
Victim	: Estranged wife	Domestic employer
Site of crime	: Victim's apartment	Victim's house, as he slept
Weapon used	: Hammer (uncertain)	Hammer, and a gun
Police theory	: Premeditated	Premeditated
Extent of wounds	: 40 stiches	40 stiches
Evidence	: Victim's testimony	Victim's testimony
Plea	: Not guilty	Guilty
Bail set by the D.A.	: \$20,000.00 in <u>CASH</u>	\$2,500.00
Judge	: John J. Pentz	John J. Pentz
District Attorney	: Joseph Ammerman	Joseph Ammerman
Publicity	: The widest front page ever given a case in this county.	Minor, passing, and in the inside pages
Previous convictions	: None	?
Sentence	: 3½ to 7 years, plus \$1,000.00 fine and \$900.00 cost	3 years PROBATION, plus \$1.00 fine

Petitioner claims that the procedures taken against him, including the way he was handled prior to trial, imposition of excessive bail, ^{was} the way he ^{was} denied opportunity to present defense evidence, the incompetence and collusion of defense counsel, the mischarged jury, the unfair and false news publicity and community prejudice against him, where violative of Amendments 6,8, and 14 of the United States Constitution, as well as Article 1, Section 9 of Pennsylvania Constitution.

In *Ex parte Nelson*, 1913, 157 S. W. 794, 251 Missouri 63, it was held that

"the authorities are uniform in holding that these constitutional (Amend. 14, Sec. 1) provisions are applicable to every form of procedure where the life, liberty or property of a person is sought to be taken from him, whether it be any trial or appellate court, sitting alone or aided by a jury, upon information, indictment, citation or appeal, charged with a misdemeanor, felony, contempt of court, inferior or superior, or with any other violation of the law, where a judgment or conviction is asked taking from him his life, liberty or property."

The United State Supreme Court has always held that what really matters first and foremost is the strict adherence to the law rather than obtaining a conviction of a man, bad as he may be, in violation of the supreme law of the land, the United States Constitution.

"The criminal goes free, if he must, but it is the law that sets him free."

"Nothing can destroy a Government more quickly than its failure to observe its own laws."

"However much in a particular case insistence upon such rules may appear as a technicality that inures to the benefit of a guilty person, the history of the criminal law proves that tolerance of shortcut methods in law enforcement impairs its enduring effectiveness."

"The ignoble shortcut to conviction left open to the state tends to destroy the entire system of constitutional restraints on which the liberties of the people rest."

No. 236 Mapp v. Ohio (1961)

"The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land." Weeks v. United States, 232 U.S. 383 (1914)

5....By reason of the aforesaid, the imprisonment of petitioner is void and without authority of law, as a denial of due process of law as well as a violation of other constitutional rights under Amendments 6, 8 and 14 to the United States Constitution, as well as Article 1, Section 9 of Pennsylvania Constitution.

6....Petitioner is prepared to substantiate the aforesaid allegations by testimony as well as by documents.

Wherefore, it is respectfully requested that this Honorable Court issue a writ directing Warden James F. Maroney of the State Correctional Institution at Pittsburgh, Pa., to produce the body of the petitioner, with the day and cause of his caption and detention, ad faciendum, sub-juciendum, et recipiendum, to do, submit to, and receive whatsoever the Judge or Court shall consider in his behalf.

ALL THAT has been said, it is submitted, shows that this petition for Writ of Habeas Corpus should issue, causing the respondent to be

adjudged to their acts, and operating to release the petitioner from his unlawful and false imprisonment forthwith.

And he will ever pray, etc.

Respectfully submitted

Sami H. Soudani

Sami H. Soudani, C-5231
P.O.Box 9901
Pittsburgh 33, Pennsylvania

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY .) SS:

AFFIDAVIT

Before ^{me} the undersigned authority, personally appeared Sami H. Soudani, who deposes and says that the facts contained in the foregoing petition are true and correct to the best of his knowledge, information, and belief.

Sami H. Soudani

Sworn to and subscribed before me
this 31 day of July, 1961

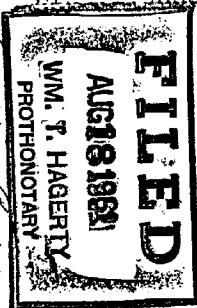
William C. Schnupp
Notary Public

WILLIAM C. SCHNUPP, Notary Public
Pittsburgh, Allegheny Co., Pa.
My Commission Expires Nov. 26, 1961

adjudged to perpetrate, and departing to release the defendant from
this jurisdiction and false imprisonment for trial.
And he will ever rise, etc.

Respectfully submitted

Sam H. Sanger, C-2531
P.O. Box 8801
Pittsburgh 33, Pennsylvania



22)
COMONWEALTH OF PENNSYLVANIA
COUNTY OF ALLEGHENY

785 May 9, 1961

WITNESS

Before the undersigned authority, personally appearing Sam H.
Hagerty, who deposes and says that the state contained in the fore-
going affidavit, and correct to the best of his knowledge,
information, and belief.

Sworn to and subscribed before me
this day of May, 1961.

John P. Murphy
Judge of Common Pleas
and Clerk of Courts
for the County of Allegheny
Pennsylvania

Address all letters to: Name Sami H. Soudani No. C-5231

P. O. Box 9901, Pittsburgh 33, Pa.

STATE CORRECTIONAL INSTITUTION
AT PITTSBURGH
J. F. MARONEY, SUPERINTENDENT

TO Mr. Wm. T. Hagerty, Prothonotary

Date Sept. 28, 1961

Street and Number The Court House

City and State Clearfield, Pa.

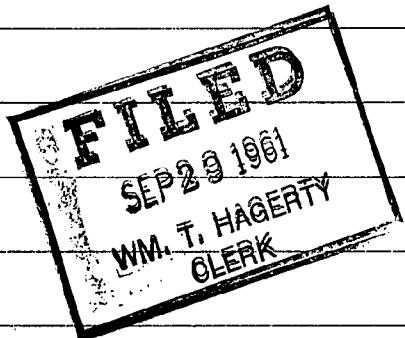
Relationship Prothonotary

Dear Mr. Hagerty:

On this date I have written to the Hon. Judge Bentz indicating my decision to voluntarily withdraw, without prejudice, my petition for a writ of habeas corpus, No. 785 May Term, 1961, which is now pending before the Court.

I hereby repeat such request. Should the Court's rules require a specific procedure to be followed in order to attain this, please advise of same.

Very truly yours
Sami H. Soudani



General Information:

Inmates are allowed a regular visit once every calendar month.

You must receive a visiting pass from the inmate in order to visit him.

Visiting hours are 8:30 A.M. to 4:30 P.M. daily except holidays.

The visiting room closes promptly at 4:30 P.M.

Money should be sent by Post Office Money Order, Registered Letter or by Express Money Order.

Inmates only may order books, newspapers or magazines from approved lists.

All correspondence must show return address of sender.

All packages from homes, stores or through visits are prohibited.

In The Court of Common Pleas of Clearfield County, Pa.

Commonwealth of Pennsylvania }
Ex Rel. SAMI H. Soudani }
vs. } No. 785 May, 1961
James F. Maroney, Superintendent } Habeas Corpus
State Correctional Institution }
Pittsburgh 33, Pennsylvania }

Petition To Reactivate A Petition

To The Honorable, The President Judge of Clearfield County, Pa.

The petition of SAMI H. Soudani, respectfully represents:

1- That on July 31, 1961, petitioner had submitted to your Honorable Court a Petition For Writ of Habeas Corpus, No. 785 May, 1961.

2- That before any action was taken on said petition petitioner filed on October 10, 1961, a Petition For Withdrawal, without prejudice, of his original petition for writ of habeas corpus, stating that this latter action was taken as a gesture of conciliation rather than anything else.

3- That petitioner was never advised of any action or the lack of it which your Honorable court may have taken on either of his original or latter petitions, thus indicating that the original petition was being held in abeyance.

4- That petitioner had attempted to get some information on the status of his original or subsequent petitions by writing to the Prothonotary who ignored petitioner, like always, and failed to reply to his communication.

5- That since recent developments have indicated that petitioner's gesture of conciliation was not shared or reciprocated by the court, petitioner now wishes to have his original petition for writ of Habeas Corpus reinstated and acted upon according to law.

6- Petitioner takes this opportunity to add to his original petition the charge that upon his arrest on December 24, 1958, he was held incommunicado by the Clearfield authorities in Clearfield County jail from December 24, 1958, until January 6, 1959, without either arraignment or a hearing before a committing magistrate, in violation of his United States Constitutional rights under the 5th, 6th, and 14th Amendments.

7- That the United States Supreme Court had held on May 14, 1962, in *Mattox v. Sacks*, No. 564 (or 584) Misc., that:

"... a prisoner may, without first seeking certiorari here, file his application for habeas corpus in the appropriate U.S. District Court --- Petitioner's allegations, if true, would present serious questions under the 14th Amendment, and those allegations would, therefore, entitle him to a hearing".

WHEREFORE, your petitioner prays this court to reinstate his original Petition For Writ of Habeas Corpus, and issue a Rule to Show Cause why he should not be discharged from custody forthwith.

And he will ever pray, etc.

Respectfully Submitted

Sam H. Soudani, C-5231

P. O. Box 9901

Pittsburgh 33, Pa.

Commonwealth of Pennsylvania }
County of Allegheny } ss:

AFFIDAVIT

Before me, the undersigned authority, personally appeared Sami H. Soudani, who deposes and says that the facts contained in the foregoing petition are true and correct to the best of his knowledge, information, and belief.

Sami H. Soudani

Sworn to and Subscribed before
me this 18 day of July, 1962

Charles J. Buffert
Notary Public

CHARLES J. BUFFERT, Notary Public
Pittsburgh, Allegheny Co., Pa.
My Commission Expires Sept. 13, 1963



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA)
Ex Rel. SAMI H. SOUDANI)
-vs-) NO. 785 MAY, 1961
JAMES F. MARONEY, Superintendent) HABEAS CORPUS
State Correctional Institution)
Pittsburgh 33, Pennsylvania)

PETITION FOR WITHDRAWAL

TO THE HONORABLE, THE PRESIDENT JUDGE OF CLEARFIELD COUNTY, PENNSYLVANIA.

The petition of SAMI H. SOUDANI respectfully represents that your petitioner now feels in a conciliatory mood and therefore, wishes to withdraw his subject petition for a writ of habeas corpus voluntarily.

WHEREFORE, it is respectfully requested that your Honorable Court order said petition withdrawn without prejudice.

And he will ever pray, etc.

Respectfully submitted,
Sami H. Soudani
SAMI H. SOUDANI, C-5231
P. O. Box 9901
Pittsburgh 33, Pa.

AFFIDAVIT

Before me, the undersigned authority, personally appeared Sami H. Soudani, who deposes and says that the facts contained in the foregoing petition are true and correct to the best of his knowledge, information, and belief.

Sami H. Soudani

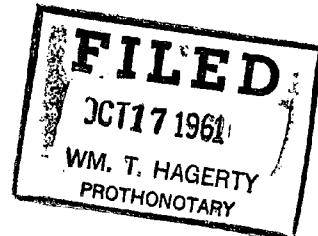
Sworn to and subscribed before me

this 15th day of Oct, 1961

William C. Schimpff

Notary Public

WILLIAM C. SCHNUPP, Notary Public
Pittsburgh, Allegheny Co., Pa.
Commission Expires Nov. 26, 1981



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA)
Ex Rel. SAMI H. SOUDANI)
-vs-) NO. 785 MAY, 1961
JAMES F. MARONEY, Superintendent) HABEAS CORPUS
State Correctional Institution)
Pittsburgh 33, Pennsylvania)

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WHEREFORE, it is respectfully requested that your Honorable Court order said petition withdrawn without prejudice.

And he will ever pray, etc.

Respectfully submitted,

Sami H. Soudani
SAMI H. SOUDANI, C-5231
P. O. Box 9901
Pittsburgh 33, Pa.

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) SS:

A F F I D A V I T

Before me, the undersigned authority, personally appeared Sami H. Soudani, who deposes and says that the facts contained in the foregoing petition are true and correct to the best of his knowledge, information, and belief.

Sami H. Soudani

Sworn to and subscribed before me
this _____ day of _____, 1961

Notary Public

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA)
Ex Rel. SAMI H. SOUDANI)
-vs-) NO. 785 MAY, 1961
JAMES F. MARONEY, Superintendent) HABEAS CORPUS
State Correctional Institution)
Pittsburgh 33, Pennsylvania)

PETITION FOR WITHDRAWAL

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And he will ever pray, etc.

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SAMI H. SOUDANI, C-5231
P. O. Box 9901
Pittsburgh 33, Pa.

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) SS:
)

A F F I D A V I T

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Sami H. Soudani

Sworn to and subscribed before me
this ____ day of _____, 1961

Notary Public

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA)
Ex rel SAMI H. SOUDANI)
vs.) No. 785 May 1961
JAMES F. MARONEY, SUPERINTENDENT) HABEAS CORPUS
STATE CORRECTIONAL INSTITUTION)
PITTSBURGH 33, PENNSYLVANIA)

ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE JOHN J. PENTZ, PRESIDENT JUDGE OF SAID COURT:

NOW comes the Commonwealth of Pennsylvania by the District Attorney's office of Clearfield County and makes answer to the Petition for Writ of Habeas Corpus as follows:

1. Paragraph 1 of the petition is admitted.
2. Paragraph 2 of the petition is admitted that the petitioner is imprisoned by virtue of conviction on a charge of Assault with Intent to Kill but it is denied that said imprisonment is unjust and unlawful and this averment is a conclusion of law.

3. Paragraph 3 of the petition is denied as stated and said averment is a conclusion of law and further answer will be made to the subparagraphs as follows:

3A. Paragraph 3A is denied and on the contrary it is averred that the prejudice of the trial Judge was set forth in the petitioner's appeal to the Superior Court to No. 321 October Term 1959 and this averment was over-ruled by the Superior Court.

3B. Paragraph 3B is denied and on the contrary it is averred that no such prejudice of the jury existed as shown by the questioning by the jurors voir dire and further, if there was a question of prejudice of the jury, said question should have been raised on the appeal of the case.

D. Paragraph 3C is admitted insofar as the petitioner was kept hand cuffed to a policeman but this was done for the well-being of the victim who was at the time of the hearing recuperating from her wounds in the hospital and was in mortal fear of the petitioner and said conduct in no way prejudiced the defendant either at preliminary hearing or at the trial.

E. Paragraph 3D is denied as stated and on the contrary it is averred that the witnesses to be used were available to the defendant at all times.

F. Paragraph 3E of the petition is a scandalous pleading and request is made by this office to have the same stricken. Defense counsel was of petitioner's own choosing and he had the right to dismiss him any time he desired and further, the record of the trial will show that defense counsel conducted a very able defense in petitioner's behalf against overwhelming Commonwealth proof and petitioner's own testimony under cross-examination.

G. Paragraph 3F of the petition is denied as stated and on the contrary it is averred that the District Attorney's office did write to the U.S. State Department concerning the citizenship of the petitioner but said efforts on the part of the District Attorney's office was brought about by the request of the petitioner himself and further, had no bearing one way or another on the fairness of the trial of the defendant. The rest of paragraph 3F is a personal attack and needs no answer.

H. Paragraph 3G is neither admitted nor denied and as in matter alleged therein were beyond the control of the District Attorney's office or any other official office and if there was public sentiment against the petitioner, said public sentiment was brought about by the petitioner's own conduct and had nothing to do with the question of fairness of trial.

I H. Paragraph 3H is neither admitted nor denied and no answer is needed thereto as again the said averments had no influence on the fairness of the defendant's trial.

4. Paragraph 4 of the petition is neither admitted nor denied and the averments therein are conclusions of fact and law and a comparison of the petitioner's case with the case of Mrs. Violet Tudor or any other case cannot be made as all cases are different on their facts and again has no bearing on the fairness of the defendant's trial.

5. Paragraph 5 is a conclusion of law and requires no answer.

6. The averments of paragraph 6 are immaterial and as the matter set forth in the petition are either matters which were or should have been brought forth on the appeal of the conviction or are matters which have no bearing on the fairness of the defendant's trial.

WHEREFORE, it is respectfully requested that your Honorable Court dismiss said petition for writ of habeas corpus without hearing.

Respectfully submitted,

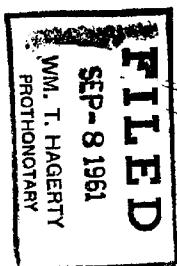


Eugene G. Kitko
District Attorney

7.5 *Di u., 1961*
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

COMMONWEALTH OF PENNSYLVANIA
Ex Rel SAMI H. SOUDANT vs.
JAMES F. MARONEY, SUPERIN-
TENDENT, STATE CORRECTIONAL INSTI-
TION
PITTSBURGH 33, PENNSYLVANIA

ANSWER TO PETITION FOR WRIT
OF HABEAS CORPUS



EUGENE G. KITKO
~~ROBERT~~
DISTRICT ATTORNEY
COURT HOUSE ANNEX
CLEARFIELD, PA.