

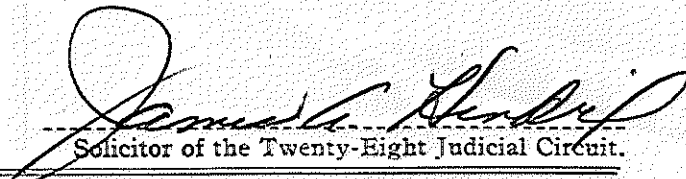
The State of Alabama, }
Baldwin County

CIRCUIT COURT, Fall SESSION, 1961.

The Grand Jury of said County charge that before finding this indictment

Earnest R. Walker, alias, Ernest R. Walker, did, in the night time, with intent to steal, break into and enter a shop, store, warehouse or other building owned by or in the possession of H. Gordon McLemore, in which goods, wares or merchandise were kept for use, sale, or deposit,

against the peace and dignity of the State of Alabama.


Solicitor of the Twenty-Eight Judicial Circuit.

RECORDED

No. _____

The State of Alabama
Baldwin County

Circuit Court

Fall Term, 1961

The State

vs.

Earnest R. Walker, alias
Ernest R. Walker
Burglary 2nd

INDICTMENT

no Prosecutor

WITNESSES:

H. Gordon McLemore 1-70-4125
Cecil Clemens

GRAND JURY NO. 106

A TRUE BILL

William A. Bryant Jr.
Foreman Grand Jury.

Filed in open Court and in the presence of
the Grand Jury on the 13 day of

Sept., 1961.

Reice French
Clerk.

Presented in open Court to the presiding
Judge by the Foreman of the Grand Jury, in

the presence of 11 other Grand Jurors.

Reice French
Clerk.

Bail fixed \$ 500.00

W. H. Hester
Judge.

AFFIDAVIT

Printed by Moore Printing Co.

State Of Alabama, }
Baldwin County. }

In the Justice Court of Sim StevensBefore me, Sim Stevens, Justice of the Peace

in and for said County, personally appeared Cecil Clemens who, being
duly sworn, deposes and says on oath that he has probable cause for believing and does believe that in said County,
on or about night of 22nd or morning of 23rd April 1961 Ernest Ray Walker
did break into and enter Gordon's Appliance Co

against the peace and dignity of the State of Alabama.

Sworn to and subscribed before me this 29th
day of April, A. D., 19 61
Sim Stevens, J. P.

Cecil F. Clemens**WARRANT**

State Of Alabama, }
Baldwin County. }

To Any Lawful Officer of Said County, Greetings:

You are hereby commanded to arrest Ernest Ray Walker

and bring him
before me to answer the State of Alabama on a charge
Burglary

and have you then and there this writ with your return thereon
Witness my hand this 29th day of April 19 61

Sim Stevens, J. P.

No. 33

Page 5462

The State Of Alabama

BALDWIN COUNTY

Justice Court Of

AFFIDAVIT

THE STATE OF ALABAMA

vs.

Witnesses for the State

DESCRIPTION

Height _____ Weight _____

Color _____ Sex _____

Age _____ Hair _____

Address _____

JUSTICE COURT OF BALDWIN COUNTY

Warrant Of Arrest

THE STATE OF ALABAMA

vs.

Ernest Ray Walker

Executed this the 27 day of April 1961

By arresting the within named Defendant

and placing him or her in jail

Jaylor Wilkins, Sheriff

W. O. Garner, Deputy Sheriff

_____, Highway Patrol

Personally appeared the under signed, who being duly sworn desposes and says: I am a Deputy Sheriff of Baldwin Co., Ala., In the above case, in the above mentioned Court in executing the warrant of arrest of the defendant. I traveled

_____ miles by the most direct route to point of arrest and return, and the Sheriff is entitled to milage at 10c per mile. Point of

arrest: Thopcy

Signed W. O. Garner

Subscribed and sworn to before me this

29 day of Apr 1961

Jim Blum
Clerk J. P. Court

April 22, 1968

Items permissible via mail service; Will consist of U.S. Money orders, solid color socks, white underwear, white handkerchiefs (all must be made of cotton) and black or tan shoes.

Items not allowed brought or sent into the institution: Food or drinks of any description, electric appliances of any kind, tobacco, matches and cigarettes.

Money may be deposited for inmate with Officer in charge on visiting days.

Honorable Telefair Mashburn, Judge,
Circuit Court of Baldwin County
Bay Minette, Alabama

Dear Judge Mashburn:

Several weeks ago I mailed a petition for writ of Error coram vobis to your court.

Could you tell me, sir, whether the petition has been set down on docket for a hearing; And, if so, when the hearing is to be held?

I should appreciate an early hearing because I have raised very substantial issues in the petition, and I am anxious to have them adjudicated. With warm regards and best wishes, I am

Sincerely,

Ernest Walker

Ernest Walker

KILBY PRISON

MAIL RULES

(FOR PERSONS WRITING TO KILBY INMATES)

All mail is censored.

Your letter will not be delivered unless you are on the inmate's approved correspondence list.

Your letter will not be delivered unless your full name and correct address are on the outside of the envelope.

Your letter will not be delivered if it contains obscene language, false information, or code of any sort.

Send only U. S. Postal Money Orders by mail. DO NOT SEND CASH OR PERSONAL CHECKS. DO NOT SEND STAMPS !

IN The Circuit Court of Baldwin County

FILED

FFR 29 1968

ALICE J. DUCK CLERK
REGISTER

EARNEST RAY WALKER
Petitioner

VS.

State of ALABAMA
Respondent

CASE NOS. 3370,
3371.

Petition For Writ of Error Coram Nobis

Petitioner, Earnest Ray Walker, hereby petitions this Court for a Writ of Error Coram Nobis and as grounds Therefor assigns the following separately and severally:

I

Petitioner is confined in Kilby Prison, Montgomery, Alabama pursuant to commitments from this court in cases nos. 3370, 3371 in which petitioner was charged with 2nd degree burglary and for which petitioner was sentenced to three (3) years in case no. 3370, and four (4) years in case no. 3371, said sentences to run consecutively for a total of seven (7) years, the said sentences being imposed upon petitioner by this court September 15, 1961 upon his plea of guilty to each charge.

II

Petitioner alleges that he is being unlawfully detained in Kilby Prison upon the charges aforesaid in contravention to constitutional rights guaranteed to him under the 5th, 6th, and 14th amendments to the United States constitution.

III

Petitioner alleges that he was compelled to stand trial upon the charges aforesaid without his having a lawyer to represent him. Petitioner was indigent and could not retain counsel to represent him and the ^{Court} did not appoint counsel to represent petitioner.

IV

Petitioner alleges that he was not represented by counsel at any time from the time of his arrest for the crimes charged aforesaid up to and including the day of his trial.

V

Petitioner alleges that he was not represented by counsel at the time he was arraigned. Petitioner further alleges that he did not waive the right to counsel at his arraignment, and that he desired to be represented by counsel but because of his indigency he was unable to retain counsel to represent him. Petitioner alleges that this court did not ask him if he desired counsel and made no offer to appoint counsel to represent him at his arraignment.

VI

Petitioner alleges that he was arraigned, tried, and sentenced on the charges aforesaid all within a matter of a few minutes and at no time during the arraignment, trial, and sentencing was he represented by counsel, as was alleged in number 5 supra. This is violative of petitioner's rights under the 6th amendment to the constitution of the United States as made obligatory upon the States by the 14th amendment, which guarantees to an accused the right to be represented by counsel at all critical stages of a criminal prosecution in the absence of an intelligent waiver thereof. See Hamilton V. Alabama, 372 U.S. 363, 83 S. Ct. 814, 9 L. Ed. 2d 811; Gideon V. Wainwright, 372 U.S. 335, 83 S. Ct. 792, 9 L. Ed. 2d 799; Carnley V. Cochran, 369 U.S. 506, 82 S. Ct. 884, 8 L. Ed. 70.

VII

Petitioner alleges that his pleas of guilty to the charges aforesaid were involuntary and they were made at a time when his will was overborn by the coercive tactics of members of the City Police Department of Fairhope, Alabama who led petitioner to believe if he did not confess to the crimes he would be sent to prison for a long period of time.

VIII

Petitioner shows that he was arrested by members of the Fairhope Police Department on March 20, 1961 and charged with 2nd degree burglary. Petitioner was released on bond April 15, 1961. Petitioner was rearrested April 28, 1961 and charged with additional charges of 2nd degree burglary. Petitioner was Fifteen (15) years of age at ^{the time} his arrest.

IX

Petitioner shows that at the time of his arrest on April 28, 1961, he was arrested without a warrant and he was taken to the City Jail in Fairhope, Alabama where he was interrogated extensively by the Chief of Police and other members of the Fairhope Police Department. During the course of the interrogation it was impressed upon petitioner that he had no chance whatever of establishing his innocence on the charges and if he did not sign confessions to the crimes and plead guilty to them, he would be dealt with harshly by the court and sent to prison for a very long term of years.

X

Petitioner shows that he had no means of retaining counsel to advise him and he was not permitted to talk to his family or friends during the interrogation. Since he was only fifteen (15) years old and inexperienced and impressionable, his will was soon overborn by the subtle coercive tactics of the police interrogation and he submitted to their will and signed confessions to the alleged crimes and agreed to plead guilty to them.

XI

Petitioner shows that he was never carried before a magistrate prior to or after the interrogation supra.

XII

Petitioner shows that he was held in the County Jail of Baldwin County, Alabama, from April 29, 1961 until September 15, 1961 before he was carried into court at which time he was arraigned, tried, and sentenced on the charges aforesaid within a matter of a few minutes, this is the first and only time he appeared in court on the said charges.

XIII

Petitioner alleges that his pleas of guilty entered in the said cases were involuntary and were a direct result of coercive tactics of the Fairhope Police Department alleged herein supra which had placed petitioner in a state of fear that if he did not plead guilty he would be dealt with harshly by the court. Petitioner avers that if his mind had not been overborn by fear as alleged above, he would have entered pleas of not guilty and tried to establish his innocence.

XIV

The pleas of guilty and the sentences imposed pursuant to said pleas are both null and void for the reasons stated hereinabove and should be set aside and vacated by the Court.

XV

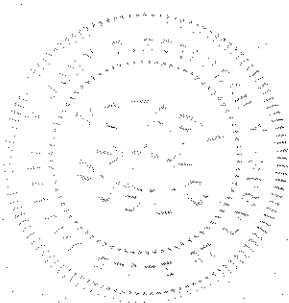
Petitioner shows that the issues raised in this petition have ~~this petition has~~ never been presented to any court for adjudication

Wherefore, Petitioner Prays:

- (1) That the court order and evidentiary hearing on the petition for writ of error coram nobis to inquire into said cause, and that the writ of coram nobis be granted;
- (2) That the court by proper order decree that the pleas of guilty entered by petitioner as alleged in the premises be set aside, cancelled, and held for naught;
- (3) That the court by proper order decree that the sentences imposed by the court as alleged in the premises be set aside, cancelled, and held for naught.
- (4) That the court enter an order requiring the State of Alabama to show cause on a day certain why the relief prayed for in said petition should not be granted.

State of ALABAMA }
Montgomery, County }

Personally appeared before the undersigned attesting officer Earnest Ray Walker, who after having been duly sworn, deposes and says that the facts contained in the foregoing petition for writ of error coram nobis are all true and accurate.



Signed:

Earnest Ray Walker
EARNEST RAY WALKER

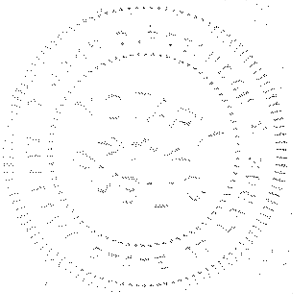
Sworn to and subscribed before me This 20 day of Feb, 1968

John D. Robinson
NOTARY PUBLIC

My Commission expires 7-19, 1971.

"Oath in Forma Pauperis"

I, Earnest Ray Walker, hereby state under oath that I am an indigent within the legal meaning of the term and that I am without any reasonable means of securing the funds to pay the cost of this proceeding; The Petition is taken in good faith and I verily believe I am entitled to the redress I seek; therefore, I pray that I be permitted to proceed in Forma Pauperis under the provisions of Title 28 U.S.C.A. section 1915.



Signed:

Earnest Ray Walker
EARNEST RAY WALKER

Sworn to and subscribed before me this 20 day of Feb, 1968

John D. Robinson
NOTARY PUBLIC

My Commission expires 2-19, 1971.

"Certificate of Service"

I, Earnest Ray Walker, hereby certify that I have this 20 day of February, 1968 served a copy of the foregoing petition for writ of error coram nobis upon the Honorable Mac Donald Gallion, Attorney General of Alabama, by placing a copy in the hands of Kilby Prison officials who vouch for the safe and timely delivery of such legal mail by courier.

Signed:

Earnest Ray Walker
EARNEST RAY WALKER

The State of Alabama, }
Baldwin County

TO ANY SHERIFF OF THE STATE OF ALABAMA:

An indictment having been found against

Ernest R. Wether, alias Ernest R. Walker

at the Fall Term, 1961 of the Circuit Court of Baldwin County, for the offense of

Burglary, 2nd

you are, therefore, commanded forthwith to arrest the said Defendant and commit him

to jail, unless he give bail to answer said indictment, and that you return this Writ according to law.

Dated this 13 day of Sept, 1961

Alfred H. Henshaw
Clerk Circuit Court of Baldwin County.

The State of Alabama, }
Baldwin County

We, _____ as principal and

the other undersigned as sureties, agree to pay the State of Alabama _____

Dollars, unless the said _____ appears

at the _____ Term of the Circuit Court of Baldwin County, and from Term to

Term thereafter until discharged by law, to answer a criminal prosecution for the offense of _____

In signing the above bond we and each of us hereby waive all legal rights of exemptions allowed us by the Constitution and laws of the State of Alabama.

Witness our hand and seal this _____ day of _____, 19____.

(L. S.)

(L. S.)

(L. S.)

(L. S.)

Taken and approved _____ day of _____, 19____.

Sheriff of Baldwin County

CAPIAS

No. 106

THE STATE

vs.

Earnest R. Walker

Executed this 14 day of Sept, 1911

By arresting the within

named Defendant

Bail fixed in this case in open Court at

\$ 500.00

By H. M. Hall
Judge Presiding.

Attest: _____
Clerk.

and placing him in Jail

Walter E. Wilson Sheriff

_____, Deputy Sheriff

O. Miller

ERNEST RAY WALKER,
Petitioner,
VS.
STATE OF ALABAMA.

IN THE
CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

3370-3371

This cause coming on to be heard on the Petition of the Petitioner, Ernest Ray Walker, for a writ of Error Coram Mobis, alleging that he was convicted in this Court in criminal cases No. 3370 and 3371, on his plea of guilty to burglary in the Second Degree; that he did not have the benefit of counsel; that he has petitioned this Court for writ of Error Coram Nobis because he was convicted and sentenced to the Penitentiary without the benefit of counsel, and the record in said cases showing that he was not represented by Counsel, and the same being considered and understood by the Court, and the Court being of the opinion that the said Ernest Ray Walker, Petitioner, is entitled to have his petition for writ of error coram nobis granted; it is therefore,

ORDERED, ADJUDGED AND DECREED by the Court that the petition of the said Ernest Ray Walker for writ of error coram nobis be and the same is hereby granted in cases No. 3370 and 3371; it is further

ORDERED, ADJUDGED AND DECREED by the Court that the Petitioner be returned to the Penal authorities of the State of Alabama, and that unless there are other charges against him, that he be discharged by said penal authorities.

Done this 27th day of June, 1968.

Walter J. Madelburn
Judge

FILED

JUN 27 1968

ALICE J. DUCK CLERK
REGISTER

Transcript of Criminal Cases from Justice Court of Baldwin County, Ala.

Attorneys	Case	Charge
	THE STATE OF ALABAMA,	
	Vs.	
	Ernest Ray Walker	

Disposition of Case	Fees	Amount
Affidavit made and Warrant Issued to	Judge's Fees	
Returnable	Warrant at 50c, Affidavit at 25c	75
Witness—for State	Bond at 50c, Sci Fa. at 50c	
4-29-61 Defendant Waived	Witnesses' Recognizances at 25c	
Hearing & was bound over	Subpoenas or notice at 25c	
to Grand Jury - Bond set	Continuance at 25c	
at \$1000.00	Trial of Misdemeanor at \$1.00	
	Mittimus at 25c	25
	Judgment on Forfeited Bond at 25c	
	Taking Bond, etc., on Appeal at \$1.00	
	Execution of costs at 25c	
	Constable's Fees	
	Subpoena or Notice at 25c	
	Carrying Defendant before Justice	
	each mile for himself and guard at 10c	
	Arrest 50c	
	Sheriff's Fees	
Wit: Cecile Clemens Fairhope	Arrest \$2.00, Bond \$1.00, Sci Fa. 50c	700
H B Gordon Fairhope	Guard \$2.00, Finger Printing 100	300
	Subpoenas at 50c, Mileage	70
	Witness Fees	
	Days at 50c	
	Days at 50c	
	Days at 50c	
	Days at 50c	
	Days at 50c	
	Days at 50c	
	Days at 50c	
	Defendant's Costs	
	Witnesses' Recognizance at 25c	
	Subpoenas at 50c	
	Executing Subpoenas	

3370

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000

1000