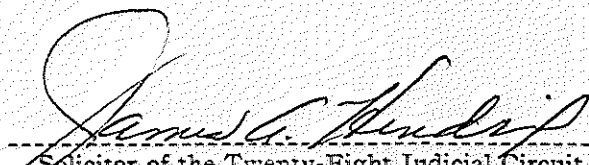


The State of Alabama, {
Baldwin County

CIRCUIT COURT, Fall SESSION, 1961.

The Grand Jury of said County charge that before finding this indictment Robert Salter, 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 Charlie Bishop, 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, 19. 61

The State

vs.

Robert Salter

Burglary, 2nd

INDICTMENT

No Prosecutor

WITNESSES:

Charlie Bishop

Taylor Wilkins

GRAND JURY NO. 50

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, 19. 61
W. A. Bryant Jr
Clerk.

Presented in open Court to the presiding
Judge by the Foreman of the Grand Jury, in
the presence of 11 other Grand Jurors.

W. A. Bryant Jr
Clerk.

Bail fixed \$ 500.00

W. A. Bryant Jr
Judge.

AFFIDAVIT

Printed by Moore Printing Co.

State Of Alabama, }
Baldwin County. }

In the Justice Court of

~~T. C. HAND~~

Before me,

~~T. C. HAND~~

Justice of the Peace

in and for said County, personally appeared W. O. Garner 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 3 April 1961 that one Robert Salter

did in the late time with intent to steal break into a locked Building
Containing merchandise & carried away same which was the Personal
Property of Charles Bishop

against the peace and dignity of the State of Alabama

Sworn to and subscribed before me this 11

day of

July

, A. D., 1961

J. P.

W. O. Garner

WARRANT

State Of Alabama, }
Baldwin County. }

To Any Lawful Officer of Said County, Greetings:

You are hereby commanded to arrest

Robert Salter

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

11

day of

July

, 1961

G. D. Davis

J. P.

No.

Page 5630

The State Of Alabama

BALDWIN COUNTY

Justice Court Of

T. C. HAND

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.

Executed this the 4 day of July 1961

By arresting the within named Defendant

and placing him or her in jail

Taylor 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

60
miles by the most direct route to point of
arrest and return, and the Sheriff is en-
titled to milage at 10c per mile. Point of
arrest: Mobile Co. Line

Signed _____

Subscribed and sworn to before me this

_____ day of _____ 19____

Clerk J. P. Court

The State of Alabama, }
Baldwin County

TO ANY SHERIFF OF THE STATE OF ALABAMA:

An indictment having been found against

Robert Siltner

at the Fall Term, 1964 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., 1964

Atlee J. Shuck
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. 51

THE STATE

vs.

Robert Salter

Bail fixed in this case in open Court at

\$ 500.⁰⁰

By H. M. Hall
Judge Presiding.

Attest: _____
Clerk.

Executed this 14 day of Sept, 1961

By arresting the within

named Defendant

and placing him in Jail

Jayton Williams Sheriff

_____, Deputy Sheriff

O. Myles

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

Attorneys	Case	Charge
	THE STATE OF ALABAMA,	<i>Burglary</i>
	Vs.	
	<i>Robert Lester</i>	

Disposition of Case	Fees	Amount
Affidavit made and Warrant Issued to <i>7/4/61</i>	Judge's Fees	
Returnable <i>7/4/61</i>	Warrant at 50c, Affidavit at 25c	<i>2.00</i>
Witness—for State <i>Charlie Bishop</i>	Bond at 50c, Sci Fa. at 50c	
<i>Myles Williams</i>	Witnesses' Recognizances at 25c	
	Subpoenas or notice at 25c	
	Continuance at 25c	
	Trial of Misdemeanor at \$1.00	
	Mittimus at 25c	
	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	
	Arrest \$5.00, Bond \$2.00, Sci Fa. 50c	<i>5.00</i>
	Guard \$2.00, Finger Printing <i>1.00</i>	<i>5.00</i>
	<i>2</i> Subpoenas at <i>25c</i> , Mileage <i>40</i>	<i>7.50</i>
	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	

In The Alabama Court Of Criminal Appeals
Montgomery, Alabama

Robert Saultey

Case No. 3377 through 3380

VS.

State Of Alabama

Motion To file And Proceed In forma
Pauperis Pursuant To: Title 15, Sec. 318
Ala. Code 1940 (Recomp. 1958) 28 U.S.C.
1915 - 2254 with the attached Pe-
tition for Writ Of Mandamus, an affi-
davit in Support is hereto attached

Petition for Writ Of Mandamus

Comes now Robert Saultey the Petitioner
in the above Styled cause and most respectfully
moves this honorable court to issue a Writ of
Mandamus to the Judicial Circuit Court of
Baldwin County Bay Minette Alabama in case
No. 3377 through 3380, on the grounds that petitioner
filed in the aforementioned court a petition
for Writ Of Error Coram Nobis on the 17th
day of December 1969, for that more than a
period of ten months has elapsed since the filing
of said petition and petitioner has not heard
from the Circuit Court of Baldwin County to
this date.

Petitioner contends that there is unnecessary
delay in his Error Coram Nobis hearing by State
Court and that from 60 to 90 days is sufficient
time to hear any case.

Wherefore petitioner Saultey prays this
honorable Court to grant this petition and
issue ~~an~~ order, ordering State Court to hear
said petition for Writ Of Error Coram Nobis
in case No. 3377 through 3380, filed by your petitioner
on 17th day Dec. 1969, in the Judicial Circuit
Court of Bay Minette Ala. and to grant your
petitioner his day in Court as law requires.

Robert Saultey
PETITIONER

Sworn to and Subscribed before me this 15 day
of Dec 1970 A.D.

Notary Public James E. Higgins

My Commission Expires January 5, 1971

PROPOSITION OF LAW IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS

PETITIONER CONTENDS THAT THE SIXTH AND
FOURTEENTH AMENDMENTS UNITED STATES
CONSTITUTION GUARANTEES HIM DUE PROCESS
AND EQUAL PROTECTION OF THE LAW (ANY FURTHER
DELAY IS A DIRECT DENIAL OF THE SAME)

Affidavit In Support

Comes now Robert Sautter, the
herein alleged PETITIONER who says
and avers that he is the PETITIONER,
that he is a citizen of the United States
and of the State of Alabama, that he
is a true pauper and comes within
the statutory requirements of Title 15,
Sec. 318-28 U.S.C. 1915, that this action
is taken in good faith to secure the
action he verily believes himself entitled
by law.

Robert Sautter ✓

AFFIANT

PETITIONER

Subscribed and sworn to before me:

Notary Public James E. Wiggins

My Commission Expires January 2, 1971

Certificate Of Service

This is to hereby certify that I, Robert
Sautter, have on this 12 day of
Dec- 1970, have forwarded
a copy of the foregoing petition for
Writ of Habeas Corpus to the Judicial
Circuit Court of Baldwin County, Bay
Minette Ala. and to the Criminal Court
of Appeals of Alabama, Montgomery Ala,
Postage prepaid, properly addressed.

Robert Sautter ✓

PETITIONER

Route 2, Box 38 Atmore, Ala.

Witnessed by:

Notary Public James E. Wiggins

My Commission Expires January 2, 1971

In The Circuit Court of Baldwin County, Alabama

Robert Saulter
Petitioner

Vs

State of Alabama
Respondent

Court No.

FILED

DEC 17 1969

ALICE J. DUCK

CLERK
REGISTERED

Petition For A Writ OF Error Coram Nobis

Comes now Robert Saulter the above styled petitioner and who duly petitions this Honorable Court for a Writ of Error Coram Nobis and to proceed as a Pauper under Title 28 Section 1915 U.S.C. AS in Townsend vs Sain) Cooper vs Alabama)

And as grounds for this petition will be shown in the following statements and allegations seperately and severally to witt:

Petitioner is at this time serving a sentence of eight (8) years which was imposed upon him by the Circuit Court of Clark County for the offense of Burglary.

Petitioner also has a sentence of two (2) years pending against him from Washington County, Petitioner also has nine (9) years pending against him from the Circuit Court of Baldwin County and is the reason for this petition Petitioner was tried on four (4) charges of Burglary 2nd degree to which he pleaded Not Guilty to one (1) charge and was given six (6) years for. He entered a plea of Guilty to three (3) charges and was sentenced to one (1) Year and one (1) day upon the three (3) charges to run consecutively with the six (6) Year sentence. Petitioner also states that he was tried upon the same charges in September 1961 and sentenced to twenty (20) years, which he filed a writ on in July 7th 1965.

Petitioner was brought back to Baldwin County, said sentence being set aside and petitioner being retried.

Petitioner was then sentenced to six (6) years upon one (1) charge of Burglary, one (1) year and one (1) day upon three (3) other charges of Burglary, 2nd degree. Said sentences being imposed on or about March 1966.

For this reason Petitioner will invoke the following allegations seperately and severally as follows:

Allegations

#(1)

Petitioner alleges that upon his arrest and trial he was not represented by Counsel. He was tried and sentenced to twenty (20) years for the offense of Burglary 2nd degree. In Powell vs Alabama it states that the accused shall be represented by Counsel in all proceedings against him. The accused needs Counsel. Counsel needs time.

(2)

Petitioner alleges that there were threats and promises made to him in order to get a coerced plea of Guilty entered in this case.

Walker vs Johnston 312 U.S. 275 61 Sct 574 85 L ed 830

Wayley vs Johnston 316 U.S. 601

(3)

Petitioner alleges that he did not have a preliminary hearing to which he is entitled to by the Code of Alabama 1940.

Gary vs State 69 Ala. 452

Mays vs Mitchell 70 Ala. 2887

(4)

Petitioner alleges that he was arrested without a warrant of arrest or first being shown a warrant or of being notified that he was entitled to be represented by Counsel while being interrogated. See

Knox vs State, App, (Ala.) 172 So 2d, 787.

(5)

Petitioner alleges that he was represented by incompetent Counsel at his trial and who did not defend him to his best ability or offer to advise him before or during trials. See

Walker vs Johnston 312 U.S. 275 61 Sct, 574. 85 L ed 830, also

Shelton vs U.S. 356 U.S. 266.

(6)

Petitioner was denied the due process of law when this Petitioner was denied a fair and impartial trial which the Sixth (6th) and fourteenth (14th) Constitutional Amendments guarantee to an accused.

(7)

Petitioner alleges that the Court and the State failed to produce any evidence against this petitioner to support a conviction. see

Garner vs Louisiana 368 US 157, Also

Gonsla vs US, CCA, LA, 146 F. 2d, 372.

(8)

A judge is not relieved of his duty to ascertain that guilty plea was understandingly, and not made merely because defendant is represented by Counsel, U.S. ex rel. Elkensis V. Gilligan, D.C. N.Y. 1966. 256 F. Supp. 244

Due process requires that before a guilty plea is accepted the court shall determine that defendant has a clear understanding of the charge, and is aware of possible defense to it and circumstances in mitigation thereof, and that his admission of guilt is without reservation. Id. To coerce guilty plea is violation of accused rights to due process. Rokeer V State of Mont. 1964, 237 F. Supp. 747--Alden V. State of Mont. 1964 234 F. Supp. 661.

Whether plea of guilt is void as having been induced by promises or threats which deprives it of character of voluntary act does not depend on whether the case is a Capital or non-capital case, Id. Mental coercion as well as physical coercion can vitiate validity of plea of guilt. Shupe V. Sigler, D.C. Neb. 1964, 230 F. Supp. 601.

Guilty plea in either state or Federal court is inconsistent with due process if obtained through promises or threats. Moore V. Rodriguez, C.A. N.M. 1966 376, F. 2d 817---- Lettin V. Cox, C.A. N.M. 1966. 355 F. 2d 397.---- U.S. ex rel. McGrath V. Lavelle, C.A. N.Y. 1963, 319 F. 2d 308.

If plea of guilt was involuntary, coerced or unfairly obtained, whether through ignorance, fear or inadvertance, it was invalid and should be set aside, Cooper V. Holman, C.A. Ala. 1966, 356, F. 2d 82. Guilty plea is void if induced by promise or threat which deprives it of character of voluntary act. Godlack V. Ross, D.C. N.Y., 1966, 259 F. Supp. 659.

It is the duty in every case to exercise care that guilty plea is voluntarily made, and if it is later shown to have been obtained or given through ignorance, fear or inadvertance, it will be set aside. Id. Plea of guilt must be entered freely and voluntarily, and use of threats or promises calculated to deprive defendant of his free choice is denial of Procedural Fairness guaranteed by this clause, and vitiates a plea of guilt so rendered. Barber V. Gladden, D.D. Or. 1967, 220, F. Supp. 308/

For the foregoing reasons petitioner prays the Honorable Court to,

- (1) Enter an order setting this case down on docket at an early date for a full fact finding and evidentiary hearing.
- (2) Enter an order directing the Board of Corrections to produce petitioner at said hearing so that he may offer evidence in support of his allegations.
- (3) That upon final determination of the facts and law of the issue involved,,

Enter an order setting aside, declaring for naught and void the charge, warrant, indictment, sentence and commitment involved in this case and order petitioner released at the earliest possible date.

Robert Smelter

Certificate of Service

I Robert Sautter hereby certify that I have mailed a copy of the foregoing petition to the Honorable Macdonald Gallion, Attorney General of Alabama, by mailing to him a copy to his office in Montgomery, Alabama.

✓ Robert Santer

Oath in Form a Pauper's

I Robert Saultor hereby state under oath that I am a citizen of the United States. I am of legal age. I am indigent within the legal meaning of the word and term of law, I am unable to pay the cost of filing fees of this petition or to offer security. Therefore this petition is taken in good faith and I verily believe that I am entitled to the legal redress which I seek. I also pray unto this Honorable Court to permit me to proceed in forma pauperis under Title 28 Section 1915 U.S.C.

Robert Santer

Sworn to before me this 15 day of Dec- 1969.

My Commission expires 19 1970 My Commission Expires Oct. 5, 1970

Bernard W. Ratte
Notary Public

3378

Certificate of Service

I Robert Sauter hereby certify that I have mailed a copy of the foregoing petition to the Honorable Macdonald Gallon, Attorney General of Alabama by mailing to him a copy to his office in Montgomery, Alabama.

Robert Sauter

Oath in Form of Jurors

I Robert Sauter hereby state under oath that I am a citizen of the United States. I am of legal age. I am indigent within the legal meaning of the word and term of law. I am unable to pay the cost of filing fees of this petition or to offer security. Therefore this petition is taken in good faith and I verily believe that I am entitled to the legal redress which I seek. I also pray unto this Honorable Court to permit me to proceed in form of Jurors under Title 28 section 1412 U.S.C.

28
U.S.C.
1412

Robert Sauter

Sworn to before me this 13 day of Dec - 1968

My Commission expires 14 day of Oct 1970

Notary Public